



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpgr.net

#25

Kerri Callais
*Councilmember
at Large*

Richard 'Richie' Lewis
*Councilmember
at Large*

Gillis McCloskey
*Councilmember
District A*

Nathan Gorbaty
*Councilmember
District B*

Howard Luna
*Councilmember
District C*

Wanda Alcon
*Councilmember
District D*

**Manuel "Monty"
Montelongo III**
*Councilmember
District E*

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, AUGUST 21, 2018 AT THREE O'CLOCK P.M.

On motion of Mr. Gorbaty, seconded by Mr. McCloskey, it was moved to adopt the following ordinance:

ORDINANCE SBPC #2089-08-18

Summary No. 3623

Introduced by: Councilmember Callais on 8/7/18
Public Hearing held on 8/21/18

AN ORDINANCE TO AMEND CHAPTER 15, OIL, GAS AND MINERAL EXPLORATION, REMOVAL AND TRANSPORTING; OTHER LAND-DISTURBING AND WATER-DISTURBING ACTIVITIES; ARTICLE III – WHARVES, PIERS, DOCKS, ETC., OUTSIDE THE FORTY ARPENT LEVEE SYSTEM, SECTION 15-51- DEFINITIONS AND SECTION 15-52 CONSTRUCTION REQUIREMENTS.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

WHEREAS, the Parish Council believes it to be in the best interest of the citizens of St. Bernard Parish and St. Bernard Parish Government to amend Chapter 15, oil, gas and mineral exploration, removal and transporting; other land-disturbing and water-disturbing activities; Article III – Wharves, piers, docks, etc., outside the Forty Arpent Levee System, Section 15-51- Definitions and Section 15-52 Construction Requirements as provided in Exhibit "A", attached hereto:

SECTION 1. the Parish Council hereby amends Chapter 15, Article III Section 15-51 and 15-52 as provided in Exhibit A, attached hereto:

SECTION 2. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 3. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion of this Ordinance with the invalid portions omitted.



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Extract #25 continued

August 21, 2018

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

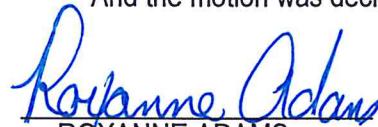
YEAS: McCloskey, Gorbaty, Alcon, Lewis

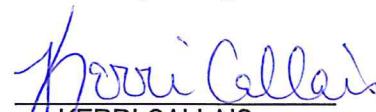
NAYS: None

ABSENT: Luna, Montelongo

The Council Chair, Ms. Callais, cast her vote as **YEA**.

And the motion was declared **adopted** on the 21st day of August, 2018.


ROXANNE ADAMS
CLERK OF COUNCIL


KERRI CALLAIS
COUNCIL CHAIR

Delivered to the Parish President

8/24/18 11:15am
Date and Time

Received by

Magen Campo

Approved

✓

Vetoed

Parish President


Guy McInnis

Returned to Clerk of the Council

8/24/18 4:30pm
Date and Time

Received by

Elijah McLean

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Exhibit "A"

Sec. 15-51. - Definitions.

The following terms as used in this article, unless the context otherwise requires, shall have the following meaning:

Average high tide. The average high tide of the previous three (3) years as reported by the U.S. Army Corps of Engineers for the affected location or area.

Average low tide. The average low tide of the previous three (3) years as reported by the U.S. Army Corps of Engineers for the affected location or area.

Average tide. The average tide of the previous three (3) years as reported by the U.S. Army Corps of Engineers for the affected location or area.

Bank stabilization works. Concrete, rock, masonry, rip-rap or similar materials used to cover existing banks or shorelines of a waterway; a bulkhead located above the average low tide to deter or prevent erosion, subsidence or wave wash of the bank or shoreline of the waterway.

Boat shed. A non-residential structure typically elevated on pilings, posts or other supports located in, over or along a waterway or water body and used primarily for the storage, security and protection of one (1) or more boats, vessels or other watercraft and not used for residential purposes.

Boat slip. A structure consisting of pilings, posts or other support devices with or without a wharf used to accommodate the mooring of one or more water craft in, over or along a waterway or water body.

Bulkhead. A structure constructed along the bank of a waterway or the shore of a water body designed to protect, reclaim or stabilize the existing shore or bank of the waterway and/or retain fill material.

Commercial. Any activity, structure or facility that has the primary purpose of producing revenue and/or generating profit.

Deposit. The act of puffing or otherwise placing fill material moved from another location by human activity onto a section of land, or into a waterway, or water body.

Dock. Any structure consisting of a wharf, pier or other works containing a bulkhead used primarily to load or unload cargo or passengers to or from a watercraft for water related activities. For the purposes of this article, a dock is considered a commercial facility unless specifically stated otherwise.

Limit line. The maximum distance from one point to another that any construction activity can extend into the waterway or water body.

Fill material. Rock, gravel, shell, sand, brick, rip-rap, soil, mud, soil or other approved material used to fill lands or reclaim water bottoms in St. Bernard Parish.

Navigable channel. That portion of a waterway that has a minimum depth of three (3) feet at the average low tide.

Noncommercial. Any structure or facilities used primarily for residential purposes including any structures or facilities used by non-profit corporations clubs or associations. Any activity, structure or facility whose is not the production of revenue and/or generation of primary purpose profit.

Owner. A person who is the fee title owner of record of parcels of land fronting a waterway having riparian rights

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in the case of natural waterways or titled rights in the case of manmade canals. In the case of parcels fronting a public road along a natural waterway and there being no discernible parcels of record between the public road and the waterway, the owner shall be the fee title owner of record of the subdivision parcel or lot fronting the public road and shall have the right to apply for permitted use of the water front between lines drawn perpendicular to the channel of the stream waterway from the road fronting corners of the lot or parcel to the average tide of the waterway.

Person. Any individual, firm, partnership, corporation, organization, association, or entity excluding federal, state and local governmental agencies or political subdivisions.

Pier. A structure extending in or on a waterway along its banks, shores or sides typically from the shore or bank and constructed on pilings, posts or other supports with water on both sides with or without a sunshade, boat shed, boat slip or boat house constructed or maintained for the purpose of providing a berth or mooring for vessels, boats or other water craft or for loading or unloading cargo or passengers to or from the water craft or for fishing.

Reclamation. The direct or indirect raising or elevating of the bottom of a waterway by deposit of fill material such that the newly created bottom of the waterway is no longer covered by water at average low tide if the water bottom is located on private property or average high tide if the water bottom is located on public property.

Structure. Any building, construction, facility, or works on land and in or on a waterway or along its banks, shores or sides and permanently attached to land by pilings, posts or other supports, including camp, boat shed, boat house, pier, wharf, bulkhead, and dock, as defined herein and also including, but not limited to, storage dock, houses, warehouse, residences, bulkheads which are not proximate to the shore or bank, business establishments, dams, bridges, impoundment structures or similar works.

Water body. Any river, bayou, canal, stream, lake, pass, bay, pond, or lagoon.

Waterway. A canal, bayou or stream that is or may be used for the conveyance and navigation of water craft. Waterways shall be classified as:

(1) *High traffic waterway.* A waterway that is used on a regular or consistent basis by the commercial fishing industry, the oil and gas industry, and/or by recreational users.

(2) *Medium traffic waterway.* A waterway that is used for recreational purposes and commercial fisheries activities and has potential for future use by the oil and gas industry. A waterway shall be deemed to have potential for future use by the oil and gas industry if it can be shown that the waterway is the most desirable route for accessibility to future areas of oil and/or gas exploration and development due to environmental considerations.

(3) *Light traffic waterway.* A waterway used primarily by the commercial fishing industry and for recreational activities, and has no potential for present or future use by the oil and gas industry.

Wharf. A structure built or constructed on pilings, posts or other supports adjacent to a water body extending along the shore or bank and connected with the shore or bank along its length with or without a sunshade, boat shed, boat slip or boat house for the purpose of providing a berth or mooring for vessels, boats or other water craft, for loading or unloading cargo or passengers to or from the water craft, or for fishing.

Sec. 15-52. - Construction requirements.

(a) The high traffic waterway shall have a minimum navigable channel fairway of seventy (70) percent of the high traffic waterway. The waterway shall be that distance from shore to shore or bank to bank. The remaining thirty (30) percent of the high traffic waterway available for development or construction or

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placement of structures may be equally divided by each respective side, shore or bank of the high traffic waterway.

- (b) The medium traffic waterway shall have a minimum navigable channel fairway of seventy (70) percent of the medium traffic waterway, however not less than seventy (70) percent. The waterway may be that distance from shore to shore or bank to bank. The remainder of the medium traffic waterway available for development or construction on the respective side, shore or bank of the medium traffic waterway.
- (c) The light traffic waterway shall have a minimum navigable channel fairway of fifty (50) percent of the light traffic waterway. The waterway may be that distance from shore to shore or bank to bank. The remaining fifty (50) percent of the light traffic waterway available for development or construction or placement of structure may be equally divided by each respective side, shore or bank of the light traffic waterway.
- (d) The construction requirements identified in (a), (b) and (c) of this section shall be used in cases where application have been made for construction on waterways or water bodies that have not been identified in this article. The following waterways have been identified:

(1) *Bayou Terre Aux Bouefs*. The limit line for construction activities shall be:

- a. From the Verrett Floodgate to the Reggio Canal ten (10) feet from the natural bank on the left descending bank (north or east) to the Reggio Canal.
- b. From Reggio Canal to the centerline of Jack's Canal Road on the eastern side of Bayou Terre Aux Bouef on the left descending bank twenty (20) feet from the centerline of Delacroix Highway.
- c. From the centerline of Jack's Canal Road to the centerline of Old Wood Lake Dump entrance on the eastern side of Bayou Terre Aux Bouef (left descending bank) thirty-five (35) feet from the centerline of highway.
- d. From the centerline of the Wood Lake Dump entrance to the projected centerline of the northern end of the Delacroix Tide Levee on the eastern side of Bayou Terre Aux Bouef (left descending bank) forty (40) feet from the centerline of highway.
- e. From the projected centerline of the Delacroix Tide Levee to the southern property line at 4103 Delacroix Highway on the eastern side of Bayou Terre Aux Bouef (left descending bank) forty-five (45) feet from the centerline of the highway.
- f. From the southern property line of 4103D to the southern property line at 5104 Delacroix Highway on the eastern side of Bayou Terre Aux Bouef (left descending bank) fifty-five (55) feet from the centerline of the highway.
- g. From the southern property line at 5104 Delacroix Highway to the terminus of Delacroix Highway (LA 300) on the eastern side of Bayou Terre Aux Bouef (left descending bank) sixty (60) feet from the centerline of the highway.
- h. From the Verret Flood Gate the south or right side (the right descending bank) of Bayou Terre Aux Bouef to Bayou Lery the existing shore or bank shall be the limit line.

(2) *Bayou la Loutre*.

- a. From LA Highway 625 in an easterly direction to the intersection of Bayou la Loutre and Bayou Yscloskey. The existing shoreline of Bayou la Loutre on both sides north and south bank.
- b. The existing southern shoreline of Bayou la Loutre from LA Highway 625 to the MRGO.
- c. From the centerline of the Yscloskey Bridge west to Bayou Yscloskey on the north shore of Bayou la Loutre shall be forty-five (45) feet from the centerline of Yscloskey Highway (LA 46).
- d. The existing west shoreline of Bayou Yscloskey from the junction of Bayou la Loutre north to the MRGO.

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- e. From the junction of Bayou la Loutre and Bayou Yscloskey to the northern boundary line of 2205 Yscloskey (LA 46) shall be thirty (30) feet from the centerline of the highway on the east side of Bayou Yscloskey.
- f. From the northern boundary line of 2205 Yscloskey Highway (LA 46) shall be thirty (30) feet from centerline of LA 46 to the southern line of 2105 Yscloskey Highway shall be fifty-five (55) feet from centerline of LA 46. The limit line for construction purposes shall be determined by the department of public works.
- g. From the southern boundary line of 2105 north to the MRGO, fifty-five (55) from the centerline of Yscloskey Highway on the eastern side of Bayou Yscloskey.
- h. Shell Beach Area—From the north side of the MRGO to Lake Borgne the existing shoreline on both sides of the Shell Beach Canal.
- i. Hopedale Area—From the centerline of Yscloskey Bridge east (on the northern side) to the eastern projected boundary of Hopedale Lagoon Canal, fifty-five (55) feet from the centerline of Hopedale Highway.
- j. From Hopedale Canal's eastern projected line eastward to 6506 Hopedale Highway forty-eight (48) feet from the centerline of Hopedale Highway on the northern side of Bayou la Loutre.
- k. From 6506 Hopedale Highway east to the MRGO the left descending bank of Bayou la Loutre the existing shoreline.

(e) Notwithstanding the foregoing construction requirements in this section, no permit shall be issued hereunder for the construction of a structure which will pose a danger to the safety of the users of water borne or land-based conveyances.

(f) Construction requirements for the structures to be permitted hereunder, when feasible may include the requirement that an applicant, in the design, plan and construction of a structure excavate an area from the waterway or its banks to a sufficient distance to place all or a portion of the structure within that excavation so as to limit or eliminate extension into the navigable portion of the waterway.

(g) Any canal having a width of fifty (50) feet or less the existing bank shall be the limit line for construction purposes.

(h) No boat shed or boat slips shall exceed thirty-five (35) feet in height.

(i) A three (3) foot set back from projected property lines is required for boat sheds and boat slips.

(j) Gutters and down spouts are required to be installed on all camps, boat sheds, boat slips and boat houses in those instances in which the rain water run off impacts adjacent property.

(k) Two (2) parking spaces for each boat shed or alternatively, one (1) parking space for each twelve (12) feet of mooring space for each boat shed or boat house, are required for any boat shed, boat slip, pier, wharf or dock constructed on or in a navigable waterway adjacent to a public, road, street or highway. Parking spaces shall be located directly across from the structure requiring parking facilities within the projected property lines.

(l) No construction, work or location of structure or building or any activity shall cause the location of a structure in or on any waterway or along its banks, shores or sides that impact or infringe on the use of any public servitude, right-of-way, easement or facility unless approved by owner of said easement.

(m) Any construction or use allowed pursuant to Chapter 15 of the Code of Ordinances is subject to the provisions of Chapter 22 of the Code of Ordinances, including but not limited to the off-street parking and loading requirements contained in Section 22-7-3.