

On motion by Commissioner Ray Mayet, seconded by Commissioner Chris Domangue, the Board of Commissioners of the Bayou Lafourche Fresh Water District amended Ordinance No. 5 on May 17, 2021.

AMENDMENT TO ORDINANCE NO. 5

AN ORDINANCE DEFINING, REGULATING, PERMITTING AND PROHIBITING POLLUTION AND LITTERING AND DEFINING BEAUTIFICATION OF PROPERTIES AND REGULATING THE CONSTRUCTION OF PHYSICAL STRUCTURES WITHIN THE BOUNDARIES OF THE BAYOU LAFOURCHE FRESH WATER DISTRICT ALL FOR THE PURPOSE OF ASSURING THE PROVISION OF AN ABUNDANT AND CLEAN SUPPLY OF FRESH WATER RESOURCES TO USERS OF SAID RESOURCES WITHIN SAID DISTRICT THROUGH A VIABLE, SUSTAINABLE, AND AESTHETICALLY PLEASING WATER CHANNEL IN BAYOU LAFOURCHE.

BE IT ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on November 16, 1994 that Ordinance No. 5 was unanimously adopted.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on December 18, 2000 that Ordinance No. 5 was amended to include Section 5(E).

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on December 17, 2001 that Ordinance No. 5 was amended to change the application fee to ten dollars (\$10.00) in Section 6.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on March 17, 2003 that Ordinance No.5 was amended to extend the permit limits in Section 4(B), and remove the application fee in Section 6.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on January 22, 2008, that Ordinance No.5 was amended to revise the linear distance for construction and to include a new provision to future projects on state lands along the Bayou.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on April 20, 2009, that Ordinance No. 5 was amended on April 20, 2009 to change the language in Section 4(B) and Section 6 regarding the agencies to contact for Letters of No Objection for permits.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on November 16, 2009, that Ordinance No. 5, Appendix A, Bayou Lafourche Fresh Water District Permit Processing Instructions was amended to include ITEM 10. Private Property/State Property Letter of Agreement. The Agreement Letter must be signed and notarized before any permit application will be approved by the Bayou Lafourche Fresh Water District

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on July 28, 2014, that Ordinance No. 5 and Appendix A were amended to provide for the issuance of permits for structures below the Mean Low Water determination of 1812, to add provisions to protect the district from any liability associated with the issuance of such permits and to revise all related forms, copies of which are attached hereto and approved.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on October 23, 2017, that Ordinance No. 5 and Appendix A were amended to revise and streamline the permit application and issuance process and to remove prohibited activities in Section 4 relating to watercraft or vessel abandonment as said provisions are now the subject of newly enacted Ordinance No. 7.

BE IT FURTHER ORDAINED, by the Board of Commissioners of the Bayou Lafourche Fresh Water District convened in Regular Session on May 17, 2021, that Ordinance No. 5 and Appendix A were amended to revise and streamline the permit application, including those forms and instructions contained in Appendix A, by authorizing the Executive Director of the Bayou Lafourche Fresh Water District to issue said permits, authorizing the Board of Commissioners to approve or disapprove all permit variances and to authorize the issuances of Floating Docks or Floating Wharf Permits and the terms, conditions, and prohibited activities of the Floating Docks or Floating Wharf.

SECTION 1. Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the singular number include the plural number, and pronouns of any gender shall include all other genders. The word **shall** is always mandatory and not merely directory.

- A. **Ashes** includes the solid residue resulting from the combustion of all fuels used for heating, cooking, burning of waste and debris, and the production of power in any public or private establishment, institution or residence.
- B. **Bayou Lafourche** (hereinafter referred to as "Bayou" and /or "Channel") shall mean the actual stream of water in the Bayou to the ordinary low stage of said water, and to the extent not then covered by the stream shall also include the area between the mean low water mark and the mean high water mark pursuant to the determination of 1812 on each side of the Bayou.
- C. **Bayou Lafourche Fresh Water District** (hereinafter referred to as the "District") shall mean the public corporate entity operating under LA Revised Statutes

38:3086.22 through 38:3086.26, and as amended in subsequent years through various Acts adopted for the purpose of supplying fresh water resources to the inhabited communities along Bayou Lafourche.

- D. **Beautification** shall mean any method, procedure or program which has the effect of creating more pleasant surroundings.
- E. **Board of Commissioners** (hereinafter referred to as the "Board") of the District shall mean the Members duly appointed and under oath to govern the affairs of said District.
- F. **Bulkhead** shall mean any structure or partition to retain or prevent sliding of the land into the water, or to protect the land adjacent to the Bayou from wave or tidal action, or to create a non-natural land/water interface.
- G. **Clearing** shall mean any activity that removes the trees, shrubs, or vegetative ground cover.
- H. **Debris** shall mean any loose material not attached to the land or to any structure and which is capable of becoming drift.
- I. **Director** shall mean the person employed and serving as Chief Administrative Officer/Executive Director for the Board of the District.
- J. **Drift** shall mean any floatable material which may cause damage to vessels or craft or cause an obstruction to the flow in the Bayou.
- K. **Excavating** shall mean any digging, scooping, or other methods of removing materials.
- L. **Filling** shall mean any depositing or stockpiling of materials.
- M. **Garbage** includes all putrescible waste matter except properly treated and permitted sewage effluent and recognizable industrial by-products and includes putrescible vegetable matter, animal offal, and animal carcasses.
- N. **Grading** shall mean any excavating or filling of materials or any combination thereof, including the land in its excavated or filled condition.
- O. **Land Disturbing Activities** shall mean any activity which may result in soil erosion from water or wind and the immediate or eventual movement of sediments into the Bayou, including, but not limited to, clearing, grading, excavating, transporting, and filling of land.
- P. **Litter** shall mean any non-naturally formed matter which in any manner reduces the natural aesthetic beauty of the Bayou and its adjacent public and private properties.
- Q. **Material** shall mean and include soil, sand, gravel, clay, rip rap, bog and mud.
- R. **Obstruction** shall mean any tree, structure, debris, or other thing which has fallen or may

fall during periods of heavy runoff, flood, wind storm or other weather condition or by action or inaction of man at a location within or along the Bayou where said obstruction could serve to fill the Bayou, interfere with the flow of the Bayou, interfere with the navigability of vessels owned and operated by the District, threaten water quality or divert such flow of the Bayou.

- S. **Premises** shall mean any land, building, wharf, pier, dolphin, boom, weir, breakdown, bulkhead, jetty, or other structure and shall include all or any as may be necessary.
- T. **Permit** shall mean prior written approval by the Director of the District for the construction of any structure or the deposition of any material or any other action described herein requiring a permit within the legal boundaries of the District, with the exception of variances to permits, which requires presentation to the Board for approval or denial.
- U. **Floating Dock or Floating Wharf Permit** shall mean written approval by the Director of the District for the placement of a Floating Dock or Floating Wharf within the legal boundaries of the District.
- V. **Person** shall mean any person, firm, partnership, association, corporation, company, organization or legal entity of any kind including a municipal corporation or governmental agencies or subdivisions.
- W. **Pollution** shall mean refuse, garbage, rubbish, ashes, cooking waste, and improperly treated sewage effluent.
- X. **Refuse** includes garbage, rubbish, ashes, animal and vegetable waste from animal quarters, and all other waste matter, except properly treated and permitted sewage, from any public or private establishment, institution, or residence.
- Y. **Rubbish** includes all non-putrescible waste matter, except ashes, from any public or private establishment, institution, or residence.
- Z. **Structure** shall mean any physical structure constructed within the Bayou regardless of purpose by any person.
- AA. **Transportation** shall mean any moving of materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative cover either by tracking or the buildup of materials to the extent that erosion and sedimentation will result.
- BB. **Untreated sewage** includes animal feces and urine as well as any material contaminated by animal body discharges and waste feed stuff which has not been subjected to proper primary treatment.

SECTION 2. General Provisions

- A. **Purpose.** The purpose of this ordinance is to provide for the orderly and efficient management, development, control and provision of the waters of the Bayou within the corporate boundaries of the District and to provide for the regulation of the uses made of public and private properties adjacent thereto as such uses interfere with the obligation of the Board to maintain the channel of the Bayou for the paramount purpose and obligation of said Board and District to furnish fresh water from the Mississippi River to the incorporated villages, towns and cities along Bayou Lafourche and within or adjacent to the boundaries of said District.
- B. **Rights of Land Owners.** This ordinance is not intended to deprive any landowner of any right or privilege associated with ownership of land or ownership or use of any fixed or permanent structure in the Bayou which was lawfully installed and lawfully in use prior to the date this Ordinance was adopted.
- C. **Application.** The provisions of this Ordinance and any rules and regulations adopted pursuant hereto shall be applicable and shall govern the waters of the Bayou within the District and public and private properties adjacent thereto, and all other maritime or marine facilities within the corporate boundaries of the District which may be determined by the Board of the District to be a threat to the purposes of this Ordinance as adopted heretofore or hereafter.
- D. **Channel.** The Board of the District shall maintain a water channel in the Bayou from head waters of the Bayou at the Walter Lemann Memorial Pumping Station discharge facility in Donaldsonville, Louisiana to the Gulf of Mexico.

SECTION 3. Enforcing Authority. The Board is authorized to enforce this ordinance by virtue of LA RS 38:3086.21 through 38:3086.27 and such Acts subsequently adopted by the Legislature. The Board delegates such responsibility to the Director or his duly authorized representative(s) unless provided otherwise hereafter.

SECTION 4: Prohibited Activities

A. No structure including but not limited to any artificial obstruction, temporary or permanent, nor any dock, floating dock, floating wharf, pier, wharf, or other structure, temporary or permanent, nor any bulkhead, rip-rap, seawall or other erosion prevention or land reclamation project or other material used for such purposes shall be erected, reconstructed, removed or repaired by any person in or across the Bayou from its headwaters in Donaldsonville to the intersection of Bayou Lafourche and the Gulf Intracoastal Waterway (GIWW) in Larose, LA without first securing a permit from the Director of the District. A District Permit Application must be submitted for all work in the above-described area, regardless of any other federal, state or local permits required by other agencies. A permit issued by BLFWD does not relieve the applicant from any other permit requirements from any other federal, state, or local agency.

Variances to any permit shall be presented to the Board for approval or denial.

B. No person shall tie up or anchor a vessel in the stream of the Bayou in such a manner as to obstruct the channel or to prevent or obstruct the passage of other vessels.

C. No person shall float or allow to float any loose timbers, debris, logs or pilings in the channel or any berthing space in such a manner as to impede the flow of the Bayou or threaten to obstruct the Bayou in any way.

D. No person shall pollute or cause the pollution of the Bayou. It shall be a violation of this ordinance to discharge or permit the discharge or deposit into the waters of the Bayou any refuse, garbage, rubbish, ashes and/or untreated sewage of any kind or maintain such material on one's premises adjacent to the Bayou in a manner which poses a threat of discharging into the Bayou.

E. It shall be unlawful to discharge or deposit any toxic waste or hazardous material or oilfield waste in any watercourse or drainage system feeding the Bayou or into the Bayou itself.

SECTION 5. Enforcement

A. **Inspection.** The Director or his authorized representative(s) may enter upon any public or private property within the District to make such inspections and take such action as may be required to enforce the provisions of this ordinance.

B. **Remedy of Violations.** If any person engages in activity prohibited hereby, the Director may, after complying with the notice requirements of subsection "J" below correct the violation. The person violating this Ordinance shall be responsible for the costs of remedy or removal of the prohibited activity and any associated costs and fees.

C. **Civil Penalties.** The Board may assess a civil penalty of up to two hundred and fifty dollars (\$250.00) for any violation of this ordinance.

D. **Criminal Penalties.** The Board may assess a criminal penalty of up to five hundred dollars (\$500.00), or imprisonment for not more than six (6) months, or both.

E. **Assistance of Law Enforcement.** The Director may request any assistance of the law enforcement agencies in the parish in which any violation occurred to enforce the provisions of any ordinances adopted by the Board.

F. **Report of Violation of Pollution Laws.** The Director may report any pollution of the Bayou from commercial or residential enterprises and the sources of such pollution to the local, state and federal agencies responsible for monitoring, investigating, prohibiting and/or preventing said pollution.

G. **Suits.** The Board shall have the authority to file suit through its Director in a court of competent jurisdiction for any remedy or relief necessary to enforce the provisions of this Ordinance or any other ordinance adopted by the Board.

H. Other Suits. The Board shall have the authority to file suit through its Director, in the appropriate case, under the Citizen Suit Provision of the Louisiana Environmental Quality Act or to enforce the provisions of any other applicable Law.

I. Extensions. The Director is authorized to grant an extension of an additional thirty days upon the showing of a reasonable cause for such extension for compliance with any provision of this ordinance.

J. Notice. The Director or his designee shall notify the owner and occupant of any premises involved of a violation of this Ordinance upon the violator's property and/or adjacent stream of the Bayou. The Director shall:

- (1) Send notice by regular mail and certified mail, return receipt requested, to the person listed on the assessor's roll as to the owner thereof, and
- (2) Send notice by regular mail and certified mail, return receipt requested, to the occupant of the principal residence upon said property, addressed to the street address thereof.

The Director shall prepare a detailed report setting forth its reasons for finding the existence of a violation. Whenever possible, photographs should be provided to augment the report.

The Director shall state in the notice:

- (1) that the owner and occupant has thirty (30) days from receipt to comply with this Ordinance, and
- (2) a citation of the provision of the Ordinance violated, and
- (3) in the event of default of said compliance, the Board may take legal action to obtain compliance, or undertake necessary corrective action at the expense of the owner and/or occupant, and
- (4) in the event the Board has to undertake corrective action at its expense, the Board shall submit an invoice to the owner or occupant for all expenses, to be paid in full by the occupant or owner within 60 days thereof.

SECTION 6: Permits. No person shall construct or begin construction, remove, reconstruct or repair any structure or floating dock or floating wharf or undertake or allow the continuance of any other applicable prohibited activity without first securing a permit from the Director as well as any other permits required by any federal, state, and local governmental agencies. Every permit application shall be accompanied by drawings which clearly and accurately describe the project. Any and all costs for preparing said drawings shall be borne by the person requesting the permit. No fees will be charged for the processing of the permit application. Permit application instructions and permit application forms are attached hereto as Appendix A. As fully set forth in the permit application instructions and related forms and the permit itself, if issued, any structures erected along the Bayou or other permitted activity must be removed or ceased at the permittee's expense upon the occurrence of any of the conditions set forth therein.

SECTION 7: Severability. The provisions of this ordinance are severable, and if any sentence, section or other part of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

SECTION 8: Prior Ordinances. All ordinances or parts of ordinances adopted by the District heretofore conflicting with or inconsistent with the provisions of this amended Ordinance are hereby repealed.

SECTION 9: Publication. This Ordinance shall be published in the Official Journal of the District in the manner provided by law.

SECTION 10: Passage. This Ordinance, having been submitted in writing, having been read and adopted by sections at a public meeting of the District on November 16, 1994. Ordinance No. 5 was amended December 18, 2000 to include Section 5(E). Ordinance No.5 was amended on December 17, 2001 to change application fee to ten dollars (\$10.00). Ordinance No. 5 was amended on March 13, 2003 to extend the permit limits in Section 4(B), and to remove the application fee in Section 6. Ordinance No. 5 was amended on January 22, 2008 to change the legislative authorization in Section 3, limits of channelward (location toward water) construction in Section 4B, and Section 6 concerning permits. Ordinance No. 5 was amended on April 20, 2009 to change the language in Section 4(B) and Section 6 regarding the agencies to contact for Letters of No Objection for permits. Ordinance No. 5 was amended on November 16, 2009 to include in Appendix A, Bayou Lafourche Fresh Water District Permit Processing Instructions ITEM 10. Private Property/State Property Letter of Agreement. The Agreement Letter must be signed and notarized before any permit application will be approved by the District. Ordinance No. 5 and Appendix A were amended on July 28, 2014 to provide for the issuance of permits for structures below the Mean Low Water determination of 1812 and to add provisions to protect the District from any liability associated with the issuance of such permits.

Ordinance No. 5 and Appendix A were amended on October 23, 2017 to revise and streamline the permit application and issuance process and to remove as prohibited activities in Section 4 relating to watercraft or vessel abandonment as said provisions are now the subject of newly enacted Ordinance No. 7.

Ordinance No. 5 and Appendix A were amended on May 17, 2021 to revise and streamline the permit application and issuance process authorizing the Director to approve and issue permit and floating dock or floating wharf permits, authorizing the Board to approve or disapprove all permit variances and to authorize the issuances of Orders of Removal of permitted structures.

The amended ordinance of May 17, 2021 was submitted and the official vote as a whole, the vote thereon being as follows:

YEAS: 9

NAYS: 0

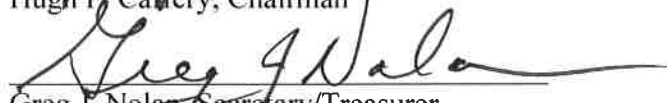
ABSENT: 3

This ordinance was passed May 17, 2021 after full, open and public hearing upon prior notice and opportunity to all interested persons, including riparian property owners, to be heard, and upon the careful consideration by the Board.

SECTION 11: Date of enforcement. This amended Ordinance No. 5 was adopted at the monthly meeting of the Board of Commissioners on May 17, 2021.



Hugh F. Cattery, Chairman



Greg J. Nolan, Secretary/Treasurer

Bayou Lafourche Fresh Water District

Amendment published June 25, 2021.