

ORDINANCE NUMBER 1 of 2012

AN ORDINANCE PROVIDING FOR
PERMITTING OF PUMPS OR OTHER
MECHANICAL INSTRUMENTALITY USED FOR
THE REMOVAL OF WATER FROM CANE
RIVER LAKE IN ORDER TO MONITER THE
USE OF WATER FROM CANE RIVER LAKE
AND FURTERH TO PROVIDE FOR THE
PROTECTION THE WATERBODY; PROVIDING
FOR PENALTIES, AND ADVERTISEMENT.

WHEREAS, the Cane River Waterway District is a body politic and corporate subdivision of the State of Louisiana, created by Acts 1982, No. 391, R.S. 34:3261, et. seq.; and

WHEREAS FURTHER, the Cane River Waterway Commission (Sometimes hereinafter “Commission”) was created for the purpose of establishing, operating and maintaining the Cane River Waterway; included in the powers delegated to the Commission is the power to adopt regulations to preserve the health, welfare and safety of the recreational and commercial users of Cane River Lake; and

WHEREAS FURTHER, among the powers and authority granted to the Commission under La. R. S. 34:3269 are the authority to “effectuate and maintain proper depths of water to accommodate the business of the Commission, and to regulate the use of water from the waterway” and “to otherwise regulate and be the regulatory authority of the Cane River Waterway and its use”; and

WHEREAS FURTHER, there are many riparian land owners that irrigate from Cane River Lake including agricultural users who use water from Cane River Lake to irrigate crops, fill ponds and water livestock and residential owners who use water to irrigate lawns and other plantings; and

WHEREAS FURTHER, the above irrigation requires the location of one or more pumps or other mechanical instrumentality on or near the bank of Cane River Lake together with associated pipes or other tubing that extends into the water in the waterway; and

WHEREAS FURTHER, the Commission recognizes that irrigation from Cane River Lake is important to all riparian land owners, and is particularly of importance to riparian land owners who irrigate crops with water from Cane River Lake; and

WHEREAS FURTHER, the Commission accepts that irrigation from Cane River Lake, as authorized by the Louisiana Civil Code, is a legitimate use of the water in Cane River Lake, but is of the opinion that it is in the best interest of the waterway to require permits for pumps or other mechanical instrumentality used to remove water from Cane River Lake; and

WHEREAS FURTHER, the issuance of permits for pumps or other mechanical instrumentality used to remove water from Cane River Lake is in the best interest of the waterway in that it will allow the Commission to track the total number of and location of such pumps or other mechanical instrumentality used to remove water from Cane River Lake; and

WHEREAS FURTHER, in addition the Commission will be able to determine the owner of a pump in the event that some problem arises with a pumps or other mechanical instrumentality used to remove water from Cane River Lake, including but not limited to a fuel or oil leak that creates an environmental issue; and

WHEREAS FURTHER, the authority of the Commission to control the use of the waters of Cane River Lake is a regulatory function that includes the authority to require a permits for a pump or other mechanical instrumentality used to remove water from Cane River Lake; and

WHEREAS FURTHER, the Commission is of the opinion, for the reasons set forth above, that the requirement for permits for pumps or other mechanical instrumentality used to remove water from Cane River Lake such regulation will help provide information to the Commission that can be utilized to protect the rights of all riparian land owners to use Cane River Lake, will further benefit the people of the State of Louisiana, will increase commerce and prosperity and will improve the general health and living conditions of riparian land owners and other users of Cane River Lake; and

WHEREAS FURTHER, the Commission proposes to adopt an ordinance requiring the issuance of a permits for pumps or other mechanical instrumentality used to remove water from Cane River Lake, providing for a fee for the issuance of said permit and providing for penalties for the failure to obtain a permits for pumps or other mechanical instrumentality used to remove water from Cane River Lake; and

WHEREAS FURTHER, duly authorized agents designated by the Cane River Waterway Commission shall inspect, monitor, and enforce the measures of this ordinance.

NOW THEREFORE, BE IT ORDAINED in legal session convened and in accordance with Louisiana R.S. 34:3261, et. seq., and specifically, R.S. 34:3269 (6) and (13) and R.S. 34:3268, no person shall use a pump or other mechanical instrumentality to remove water from Cane River Lake with out having first obtaining a permit from the Cane River Waterway Commission.

BE IT FURTHER ORDAINED that permits will be issued for the cost of Twenty-five and no/100 (\$25.00) Dollars, per pump, for an initial permit, and may be renewed on an annual basis for Five and no/100 (\$5.00) Dollars; and

BE IT FURTHER ORDAINED that the Commission may impose a civil compliance order directing any person failing to obtain a permit for any pump or other mechanical instrumentality used to remove water from Cane River Lake to cease and desist and impose a fine

of \$200.00 per day for each day the violation continues up to a maximum of \$5,000.00. The fine shall commence on the day following the date specified for compliance in the civil compliance order issued by the Commission.

BE IT FURTHER ORDAINED that all fees and fines imposed under this section shall be payable to the Cane River Waterway Commission.

BE IT FURTHER ORDAINED that if civil action is necessary to recover fines imposed under this section, the offenders shall be liable for the amount of the fine, legal interest from the date of assessment and all costs of recovery, including attorney fees and costs.

BE IT FURTHER ORDAINED that in the event that any person continues to withdraw, remove and/or pump water from Cane River in violation of the Ordinance and after receiving a civil compliance order, the Chairman of the Commission shall be authorized to file suit in District Court for the Parish of Natchitoches, Louisiana seeking a Court Order enjoining further withdrawal, removal and/or pumping of water from Cane River Lake in violation of this Ordinance.

BE IT FURTHER ORDAINED that all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

BE IT FURTHER ORDAINED that if any portion of this Ordinance is declared to be invalid or unconstitutional in any manner, the invalidity shall be limited to that particular section or provision, and shall not affect the remaining portions of the ordinance, which shall remain valid and enforceable, it being the intention of the Cane River Waterway Commission that each separate provision shall be deemed independent of all other provisions herein.

This Ordinance shall go into effect upon publication and in accordance with law.

Said Ordinance having been introduced on the 11 day of September, 2012, at a regular meeting of the Cane River Waterway Commission held at 244 Cedar Bend Road, City of Natchez, Louisiana.

Ordinance considered, on motion by Ms. Vienne and seconded by Mr. Wiggins, to adopt the ordinance, a record vote was taken and the following

Result was had:

YEAS: 3

NAYS: 0

ABSENT: 1

OBSTAIN: 1

Whereupon, the presiding officer declared the above Ordinance duly passed on this the 16 day of October, 2012.

Chairman Gerald Longlois