

1 Introduced by Council Member DeFoor:  
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3

4 **ORDINANCE 2022-61**

5 AN ORDINANCE APPROPRIATING \$310,500 IN THE  
6 DERELICT VESSEL AND FLOATING STRUCTURE REMOVAL  
7 FUND FROM THE PARKS DEPARTMENT TO NEIGHBORHOODS  
8 DEPARTMENT IN ORDER TO PROVIDE THE NEIGHBORHOODS  
9 DEPARTMENT FUNDING TO IMPLEMENT AND ENFORCE THE  
10 NEWLY CREATED CHAPTER 388, ORDINANCE CODE (BOATS  
11 AND WATERWAYS); AMENDING CHAPTER 388 (BOATS AND  
12 WATERWAYS), *ORDINANCE CODE*, TO CREATE A NEW PART  
13 4 (ANCHORING LIMITATION AREAS); PROVIDING THAT  
14 COUNCIL IS EXERCISING COUNTY POWERS; PROVIDING  
15 FOR CODIFICATION INSTRUCTIONS; PROVIDING  
16 DIRECTIVE TO NEIGHBORHOODS DEPARTMENT;  
17 PROVIDING AN EFFECTIVE DATE.  
18

19 **WHEREAS**, the Florida Legislature recently amended Section  
20 327.4108, *Florida Statutes*, to provide for counties meeting certain  
21 criteria to establish anchoring limitation areas adjacent to urban  
22 areas that have residential docking facilities and significant  
23 recreational boating traffic; and

24 **WHEREAS**, the City of Jacksonville, as a consolidated city/county  
25 government, is authorized to enact an ordinance establishing  
26 anchoring limitation areas within the county and desires to do so  
27 subject to the requirements of Section 327.4108, *Florida Statutes*;  
28 and

29 **WHEREAS**, the City of Jacksonville has provided notice to the

1 Florida Fish and Wildlife Conservation Commission ("FWC") as required  
2 by Sec. 327.4108(2)(c), now therefore

3 **BE IT ORDAINED** by the Council of the City of Jacksonville:

4 **Section 1. Appropriation.** For the 2021-2022 fiscal year, within  
5 the City's budget, there are hereby appropriated the indicated sum(s)  
6 from the account(s) listed in subsection (a) to the account(s) listed  
7 in subsection (b):

8 (B.T. 22- attached hereto as **Exhibit 1** and incorporated herein by  
9 this reference)

10 (a) Appropriated from:

11 See **Exhibit 1** \$310,500.00

12 (b) Appropriated to:

13 See **Exhibit 1** \$310,500.00

14 (c) **Explanation of Appropriation**

15 The appropriation above in the Derelict Vessel and Floating  
16 Structure Removal Fund is a reappropriation of funds from  
17 the Parks, Recreation and Community Services Department  
18 ("Parks Department") to the Neighborhoods Department for  
19 implementation and enforcement of the newly created Ch.  
20 388 (Boating and Waterways), *Ordinance Code*.

21 **Section 2. Purpose.** The purpose of the appropriation in  
22 Section 1 is to provide funding to the department which will be doing  
23 the work to implement and enforce Ch. 388, *Ordinance Code*. Two of  
24 the Divisions within the Neighborhoods Department are involved with  
25 the effort to enforce the Code regarding derelict vessels in the  
26 Waters of Duval County, and regarding floating structures in the  
27 Waters of Duval County. Derelict vessels were previously handled by  
28 the Parks Department, but this task has been reassigned to the  
29 Neighborhoods Department.



1 infrastructure; protect the marine environment and deter  
2 improperly stored, abandoned, or derelict vessels.

3 **Sec. 388.402. - Definitions.**

4 For the purpose of this Chapter, where applicable, the terms, phrases,  
5 words, abbreviations and their derivations shall have the meaning  
6 given in Section 327.02, *F.S.*, unless specifically defined herein.  
7 When not inconsistent with the context, words used in the present  
8 tense include the future tense, words in the plural number include  
9 the singular number and words in the singular number include the  
10 plural number. The word "shall" is always mandatory and not merely  
11 directory. Words not defined shall be given their meaning as provided  
12 Section 1.102 (definitions and rules of constructions), Ordinance  
13 Code.

14 **Sec. 388.403. -Criteria for Anchoring Limitation Areas.**

15 The aggregate total of Anchoring Limitation Areas within Duval County  
16 may not exceed 10 percent of the county's delineated navigable-in-  
17 fact waterways. As used in this Chapter, "navigable-in-fact  
18 waterways" means waterways that are navigable in their natural or  
19 unimproved condition over which useful commerce or public recreation  
20 of a substantial and permanent character is or may be conducted in  
21 the customary mode of trade and travel on water. The term does not  
22 include lakes or streams that are theoretically navigable; have a  
23 potential for navigability; or are temporary, precarious, and  
24 unprofitable, but the term does include lakes or streams that have  
25 practical usefulness to the public as highways for transportation.  
26 Each Anchoring Limitation Area established herein must meet all the  
27 following requirements:

- 28 (a) Be less than 100 acres in size. For purposes of this  
29 subsection, the calculated size of the anchoring limitation

1 area does not include any portion of the marked channel of  
2 the Florida Intracoastal Waterway contiguous to the  
3 anchoring limitation area;

4 (b) Not include any mooring field or marina; and

5 (c) Be clearly marked with all of the following:

6 (1) Signs that provide reasonable notice to boaters  
7 identifying the duration of time beyond which anchoring  
8 is limited and identifying the county ordinance which  
9 the Anchoring Limitation Area was created. The design  
10 and the proposed location of the signs, as either posts  
11 or buoys, shall be managed by the Parks, Recreation, and  
12 Community Services ("Parks") Department. This  
13 Department shall coordinate the permitting of the signs  
14 with FWC, pursuant to Sec. 327.4108, F.S.

15 (2) Signs installed by either posts or buoys marking the  
16 boundary of the Anchoring Limitation Areas shall be  
17 procured, installed and maintained by the Parks  
18 Department.

19 Signs must be permitted and installed in accordance with Secs. 327.40  
20 and 327.41, F.S., and Florida Fish and Wildlife Conservation  
21 Commission ("FWC") rules.

22 **Sec. 388.404. - Anchoring Limitation Areas Defined.**

23 The following areas are designated as Anchoring Limitation Areas:

24 (a) Ortega River Anchoring Limitation Area # 1

25 [INSERT AREA 1 COLOR MAP HERE]

26 (b) Ortega River Anchoring Limitation Area # 2

27 [INSERT AREA 2 COLOR MAP HERE]

28 (c) Ortega River Anchoring Limitation Area # 3

29 [INSERT AREA 3 COLOR MAP HERE]

30 (d) Ortega River Anchoring Limitation Area # 4

1 [INSERT AREA 4 COLOR MAP HERE]

2 Renderings of the boundaries of these Anchoring Limitation Areas  
3 can also be found at [www.coj.net](http://www.coj.net).

4 **Sec. 388.405. - Anchoring Restricted in Anchoring Limitation**  
5 **Areas.**

6 A person may not anchor a vessel for more than 45 consecutive days  
7 in any 6-month period in an Anchoring Limitation Area established in  
8 this Chapter, except as provided in Sec. 388.406 below.

9 **Sec. 388.406. - Vessels not restricted in Anchoring Limitation**  
10 **Areas.**

11 The anchoring restrictions of this  
12 Part do not apply to:

- 13 (a) Vessels owned or operated by a governmental entity for law  
14 enforcement, firefighting, military or rescue purposes.  
15 (b) Construction or dredging vessels on an active job site.  
16 (c) Vessels actively engaged in commercial fishing.  
17 (d) Vessels engaged in recreational fishing if the persons  
18 onboard are **actively** tending hook and line fishing gear or  
19 nets.  
20 (e) Vessels anchored or moored within the riparian rights of  
21 the owner of the vessel, and only at a maximum distance  
22 from the shore of the riparian owner that provides the  
23 depth required for the safe anchorage/mooring of such  
24 vessel, considering the swing of the vessel at mean low  
25 tide. Riparian rights means those rights incident to the  
26 lands bordering upon navigable waters, as recognized by  
27 the courts of Florida and in common law.

28 **Sec. 388.407. - Enforcement.**

- 29 (a) For purposes of this Part, the term "law enforcement  
30 officer or agency" means the officers of the Jacksonville

1 Sheriff's Office, the Division of Law Enforcement of FWC  
2 and its officers, and any other law enforcement officer as  
3 defined in Sec. 943.10, *F.S.* (2021) as follows: any person  
4 who is elected, appointed, or employed full time by any  
5 municipality or the state or any political subdivision  
6 thereof; who is vested with authority to bear arms and make  
7 arrests; and whose primary responsibility is the prevention  
8 and detection of crime or the enforcement of the penal,  
9 criminal, traffic, or highway laws of the state. This  
10 definition includes all certified supervisory and command  
11 personnel whose duties include, in whole or in part, the  
12 supervision, training, guidance, and management  
13 responsibilities of full-time law enforcement officers,  
14 part-time law enforcement officers, or auxiliary law  
15 enforcement officers but does not include support personnel  
16 employed by the employing agency.

17 (b) For a vessel in an Anchoring Limitation Area established  
18 pursuant to this Part, the law enforcement officer is  
19 authorized to issue a citation, conforming to Ch. 609,  
20 Ordinance Code, to a person when, based upon an  
21 investigation by the officer or evidence provided by others  
22 such as affidavits and date-stamped photographs, the  
23 officer has reasonable cause to believe that the person  
24 has been in the Anchoring Limitation Area in violation of  
25 this Part. Upon an inquiry by a law enforcement officer  
26 or agency as part of the investigation, a vessel owner,  
27 operator, or responsible party must be given an opportunity  
28 to provide proof that the vessel has not exceeded the  
29 limitations described in Sec. 388.405 herein prior to being

1 issued a citation. Such proof may include any of the  
2 following:

- 3 (1) Documentation showing that the vessel was in another  
4 location at least 1 mile away, for at least 24 hours,  
5 within a period of less than 45 days before the inquiry.  
6 (2) Electronic evidence, including, but not limited to,  
7 navigational devices or tracking devices that show the  
8 vessel was in another location at least 1 mile away, for  
9 at least 24 hours, within a period of less than 45 days  
10 before the inquiry.

11 (c) If a vessel owner or operator is **present** and fails or  
12 refuses to provide proof that the vessel has not exceeded  
13 the limitations described in Sec. 388.405, herein, the law  
14 enforcement officer or agency may issue a citation for a  
15 violation of this Part. Any person who willfully refuses  
16 to sign and accept a citation issued by a law enforcement  
17 officer or agency shall be guilty of a misdemeanor as  
18 provided for in Sec. 162.21, F.S.

19 (d) If the owner or operator is **not present**, the law  
20 enforcement officer or agency shall follow the standard  
21 operating procedures outlined below to locate and notify a  
22 responsible party:

- 23 (1) without boarding the vessel, search the vessel thoroughly  
24 for registration, documentation, hull identification and  
25 engine serial numbers if visible and in public view, and  
26 any identifying markings that may help to identify the  
27 vessel's owner, operator, or responsible party. The  
28 investigating member of law enforcement shall not,  
29 without a warrant or permission from the owner or



1 operator via telephone or other device, open any closed  
2 or locked compartments or containers; and

3 (2) Complete a report and provide to a database maintained  
4 by the Parks Department that tracks the location and  
5 length of stay of vessels within the Anchoring  
6 Limitation Areas. The data shall contain as many  
7 representative photos, GPS coordinate documentation,  
8 etc. as necessary to document all specific, objective  
9 factors which were observed that provided the basis for  
10 determining that the vessel was in violation of this  
11 Part. Documentation consisting of sworn affidavits from  
12 others with accompanying photographs of the vessel shall  
13 also be accepted and posted to the database; and

14 (3) Take steps to ascertain the owner or responsible party  
15 of the vessel. The investigating member shall, at a  
16 minimum, conduct a thorough canvassing of the area,  
17 check with other local police departments and Sheriff's  
18 offices, and FWC. Additional resources that the  
19 investigating member may use to find the responsible  
20 party include, but are not limited to: FCIC and NCIC;  
21 National Insurance Crime Bureau (NCIB.org); internet  
22 searches; 411.com; LInX, ArrestNet, and other similar  
23 databases; physically going to and checking addresses;  
24 speaking with nearby boaters and members of the maritime  
25 community; calling associated phone numbers; checking  
26 with the U.S. Coast Guard regarding documents vessels;  
27 and requesting that FWC's Investigations Section  
28 conduct a CLEAR inquiry; and

1 (4) The investigating member shall create a new report in  
2 the database case file that describes in detail all  
3 efforts taken to locate the vessel owner or responsible  
4 party, and if they were located.

5 (e) If an owner or responsible party is identified after search  
6 and inquiry, and the investigating member shall give the  
7 owner or responsible party an opportunity to provide the  
8 proof described in Sec. 388.407(b), above. If the owner  
9 or responsible party refuses or fails to provide the proof,  
10 the enforcement officer or agency may issue a citation for  
11 violation of this Part.

12 (f) If the owner or responsible party is not identified after  
13 research and inquiry, the investigating member shall post  
14 a notice on the vessel. The notice shall be in  
15 substantially the same form as the form of notice described  
16 in Sec. 388.302, Ordinance Code.

17 (g) A law enforcement officer or agency may remove a vessel  
18 from an Anchoring Limitation Area and impound the vessel  
19 for up to 48 hours, or cause such removal and impoundment,  
20 if the vessel operator, after being issued a citation for  
21 a violation of this Part if the owner or operator of the  
22 vessel is **present** and:

23 (1) Anchors the vessel in violation of this Part within 12  
24 hours after being issued the citation; or

25 (2) Refuses to leave the Anchoring Limitation Area after  
26 being directed to do so by a law enforcement officer or  
27 agency.

28 (h) For purposes of this Chapter, "impound" means to seize and  
29 retain in the custody of law enforcement. After 48 hours  
30 have elapsed since impoundment, if the vessel owner,

1 operator, or responsible party has not appeared to claim  
2 the vessel at the designated impoundment location, then  
3 the law enforcement officer or agency acting under this  
4 Part is authorized to place the vessel into a designated  
5 storage location, at the vessel operator's expense, until  
6 the vessel owner, operator, or responsible party has  
7 claimed the vessel and paid all impoundment, penalty and  
8 storage fees which have accrued since impoundment and as  
9 a result of any penalties.

10 (i) A vessel that is the subject of four (4) or more violations  
11 within 12 months which result in dispositions other than  
12 acquittal or dismissal shall be declared to be a public  
13 nuisance and subject to Sec. 705.103, *F.S.*, which provides  
14 that the vessel may be removed, after a 21-day notice  
15 period, and destroyed or used for an artificial reef; or  
16 for a derelict vessel, subject to Sec. 823.11, *F.S.*, which  
17 provides that the vessel may be relocated, removed,  
18 stored, destroyed or disposed of.

19 (j) The costs of such removal and destruction are recoverable  
20 against the vessel owner or the party determined to be  
21 legally responsible for the vessel being upon the waters  
22 of the state in a derelict condition. The Office of  
23 General Counsel shall represent the Neighborhoods  
24 Department or the Jacksonville Sheriff's Office ("JSO"),  
25 depending on which agency incurred the costs, in actions  
26 to recover such costs.

27 (k) The contractor performing such activities at the direction  
28 of the Neighborhoods Department or JSO must be licensed  
29 in accordance with applicable U.S. Coast Guard regulations

1 where required; obtain and carry in full force and effect  
2 a policy from a licensed insurance carrier in this state  
3 to insure against an accident, loss, injury, property  
4 damage, or other casualty caused by or resulting from the  
5 contractor's actions; and be properly equipped to perform  
6 the services to be provided.

7 (l) Pursuant to Sec. 327.4108(6)(d), *F.S.*, a law enforcement  
8 officer or agency acting under this Part to remove or  
9 impound a vessel, or to cause such removal or impoundment,  
10 shall be held harmless for any damage to the vessel  
11 resulting from such removal or impoundment unless the  
12 damage results from gross negligence or will misconduct.

13 (m) A contractor performing removal, impoundment and/or  
14 storage services at the direction of a law enforcement  
15 officer or agency pursuant to this Part must:

16 (1) Be licensed in accordance with United States Coast Guard  
17 regulations, as applicable.

18 (2) Obtain and carry a current policy issued by a licensed  
19 insurance carrier in this state to insure against any  
20 accident, loss, injury, property damage, or other  
21 casualty caused by or resulting from the contractor's  
22 actions.

23 (3) Be properly equipped to perform such services.

24 **Sec. 388.408. - Violations.**

25 (a) Pursuant to Sec. 327.73(1)(z), *F.S.*, a violation of  
26 Anchoring Limitation Areas is punishable as a noncriminal  
27 infraction for which the penalty is:

28 (1) For a first offense, up to a maximum of \$50.

29 (2) For a second offense, up to a maximum of \$100.

30 (3) For a third or subsequent offense, up to a maximum of

1                   \$250.

2           (b) In addition to the civil penalty imposed above, the owner  
3           or operator of a vessel that is removed and impounded  
4           pursuant to Section 388.407(g) must pay all removal and  
5           storage fees before the vessel is released. A vessel  
6           removed pursuant to Section 388.407(g) may not be impounded  
7           for longer than 48 hours. Following impoundment, the vessel  
8           will be stored as described in Section 388.407(h).

9           (c) All penalties, fines, reimbursement for removal,  
10          impoundment, and storage fees relating to this Chapter  
11          shall be placed into the *Derelict and Abandoned Vessel and*  
12          *Floating Structure Enforcement and Removal Trust Fund, Sec.*  
13          111.787, *Ordinance Code.*

14           **Section 4.           Renderings/Directive to Legislative Services**  
15 **Division for delivering maps.** Renderings of the boundaries of the  
16 Ortega River Anchoring Limitation Areas described in Section 3 above  
17 are attached hereto as **Exhibit 2**. Upon adoption of this Ordinance,  
18 the Legislative Services Division is directed to forward the maps  
19 attached as **Exhibit 2** to the Information Technologies Division to be  
20 placed on the City website. The Legislative Services Division is  
21 also directed to forward the maps to the Parks, Recreation, and  
22 Community Services Department for coordination with the Florida Fish  
23 and Wildlife Conservation Commission for the posting of signs within  
24 the waterway to alert the boating public.

25           **Section 5.           Requesting the Mayor to Direct the Parks,**  
26 **Recreation, and Community Services Department to oversee the signage**  
27 **and create a database for the Anchoring Limitation Areas.** The Council  
28 requests that the Parks, Recreation, and Community Services  
29 Department ("Parks Department") oversee the design, permitting,  
30 procurement, installation and maintenance of the signs within the

1 waterway, through the Florida Fish and Wildlife Conservation  
2 Commission ("FWC"), that will alert the boating community to the  
3 Anchoring Limitation Areas. The Council requests that this task be  
4 completed as quickly as possible. Publication of the Anchoring  
5 Limitation Areas shall also be provided through all media channels  
6 be provided so that the public is informed not only by the signs  
7 posted but the media communication as well. Additionally, the Parks  
8 Department shall create, or utilize an existing database, and maintain  
9 the database to track the locations of vessels within Anchoring  
10 Limitation Areas for the use of JSO in the enforcement of Ch. 388,  
11 Part 4, *Ordinance Code*, and provide the administrative assistance to  
12 JSO of tasks that are not limited to a law enforcement officer or  
13 agency.

14 **Section 6. Requesting the Mayor to Direct the Neighborhoods**  
15 **Department to oversee the removal of the vessels determined to be**  
16 **derelict or abandoned as part of the enforcement of Ch. 388, Part 4,**  
17 **Ordinance Code.** The Council requests that the Neighborhoods  
18 Department oversee the removal of vessels that, as a result of the  
19 enforcement of Part 4 of Chapter 388, *Ordinance Code*, are statutorily  
20 either derelict or abandoned vessels.

21 **Section 7. Requesting the Sheriff to Direct the JSO Marine**  
22 **Unit to coordinate with the Neighborhoods Department.** The Council  
23 requests that the Sheriff assign the JSO Marine Unit to coordinate  
24 with the Neighborhoods Department in the enforcement of Ch 388  
25 (Boating and Waterways), Part 4 (Anchoring Limitation Areas),  
26 *Ordinance Code*. Pursuant to the enabling statute, Sec. 327.4108,  
27 *F.S.* (2021), the enforcement of Part 4 must be accomplished by a law  
28 enforcement officer or agency. The

1 Neighborhoods Department shall assist JSO that they are able under  
2 the law.

3 **Section 8. Council exercising county powers.** Pursuant to  
4 Section 4.102, *Ordinance Code*, the enactment of this Ordinance shall  
5 be deemed to be the exercise of county powers.

6 **Section 9. Compliance with Sec. 327.4108, F.S.** As required  
7 in Sec. 327.408(2)(c), *F.S.*, a notice was provided to the Florida  
8 Fish and Wildlife Conservation Commission at least 30 days before the  
9 introduction of this ordinance, to notify the public of the City's  
10 intention to establish anchoring limitation areas.

11 **Section 10. Codification Instructions.** The Codifier  
12 and the Office of General Counsel are authorized to make all chapter  
13 and division "tables of contents" consistent with the changes set  
14 forth herein, including renumbering of sections. Such editorial  
15 changes and any others necessary to make the Ordinance Code shall be  
16 made forthwith and when inconsistencies are discovered.

17 **Section 11. Effective Date.** This ordinance shall  
18 become effective upon signature by the Mayor or upon becoming  
19 effective without the Mayor's signature.

20  
21  
22 Form Approved:

23  
24           /s/ Susan C. Grandin          

25 Office of General Counsel

26 Legislation Prepared by: Susan C. Grandin

27  
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