

1 Introduced by Council Member Ferraro and Co-sponsored by Council
2 Members Diamond, Bowman, White, Freeman, Becton, Cumber, Gaffney,
3 Wilson, Salem, and Morgan and substituted by the Neighborhoods,
4 Community Services, Public Health and Safety Committee:
5
6

7 **ORDINANCE 2020-589**

8 AN ORDINANCE AMENDING CHAPTER 34 (NEIGHBORHOODS
9 DEPARTMENT), PART 3 (MUNICIPAL CODE COMPLIANCE
10 DIVISION), SECTION 34.301 (ESTABLISHMENT;
11 FUNCTIONS); AMENDING CHAPTER 34 (NEIGHBORHOODS
12 DEPARTMENT), PART 4 (ENVIRONMENTAL QUALITY
13 DIVISION), SECTION 34.401 (ESTABLISHMENT;
14 FUNCTIONS) AND CREATING A NEW SECTION 34.403
15 (ENFORCEMENT OFFICERS); AMENDING CHAPTER 360
16 (ENVIRONMENTAL REGULATION), PART 1 (PUBLIC
17 POLICY; GENERAL PROVISIONS), SECTION 360.107
18 (ADMINISTRATION); AMENDING TITLE X
19 (ENVIRONMENTAL AFFAIRS) TO CREATE A NEW CHAPTER
20 388 (BOATS AND WATERWAYS), ORDINANCE CODE;
21 AMENDING CHAPTER 609 (CODE ENFORCEMENT
22 CITATIONS), SECTION 109 (APPLICABLE CHAPTERS AND
23 PARTS); AMENDING SECTION 110.414 (DERELICT
24 VESSEL REMOVAL FUND) TO DIRECT THAT ANY
25 ABATEMENT RECOVERY FROM THE REMOVAL OF DERELICT
26 VESSELS OR FLOATING STRUCTURES BE PLACED INTO
27 THIS FUND; PROVIDING FOR CODIFICATION
28 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.
29

30 **WHEREAS,** the Jacksonville Waterways Commission created a
31 committee entitled the "Derelict Vessels and Floating Structures

1 Committee" in order to focus on the many citizen complaints heard by
2 the Commission, Council Members and the Mayor's Office involving
3 sunken boats, partially sunken boats, and boats or other structures
4 deteriorating while at anchor or adrift in the waters of Duval County;
5 and

6 **WHEREAS**, the Derelict Vessel and Floating Structures Committee
7 (the "DV/FS Committee") met over the period of a year to gather
8 citizen and City staff input, and research ways to combat the problem;
9 and

10 **WHEREAS**, the DV/FS Committee also met with representatives from
11 the Florida Fish and Wildlife Conservation Commission ("FWC") and the
12 Jacksonville Sheriff's Office ("JSO") to determine the best way to
13 regulate and enforce new or existing regulations; and

14 **WHEREAS**, the State, through FWC, has a program to reimburse
15 local governments for the removal of derelict vessels, however, the
16 legislature has not provided funding for the removal of "floating
17 structures" as defined by FWC; and

18 **WHEREAS**, instead, the legislature has specifically authorized
19 local governments, pursuant to Sec. 327.60, F.S. (2019) (Local
20 regulations; limitations), to regulate floating structures, live-
21 aboard vessels, and commercial vessels (excluding commercial fishing
22 vessels) within their jurisdictions; and

23 **WHEREAS**, in 2018 and 2019 in the Ortega River, a former vessel
24 which was determined to have become a "floating structure" by FWC,
25 was occupied and was the subject of several marine sanitation device
26 citations; and

27 **WHEREAS**, the floating structure capsized in July of 2019 and
28 quickly began to deteriorate placing rubbish and litter in the
29 waterway that struck docks, boats, and created a dangerous situation
30 for mariners; and

1 **WHEREAS**, the DV/FS Committee proposed this draft Ordinance to
2 the full Waterways Commission on September 9, 2020 as a structural
3 beginning to combat the dangerous and unsanitary condition presented
4 by floating structures and derelict vessels; and

5 **WHEREAS**, the Waterways Commission voted on October 28, 2020 to
6 approve the draft substitute Ordinance for consideration by the City
7 Council; now therefore

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

9 **Section 1. Amending TITLE III (Executive Branch), Chapter**
10 **34 (Neighborhoods Department), Part 3 (Municipal Code Compliance**
11 **Division), Section 34.301 (Establishment; functions), Ordinance Code.**

12 CHAPTER 34 (NEIGHBORHOODS DEPARTMENT), Part 3 (Municipal Code
13 Compliance Division), Section 34.301 (Establishment; functions),
14 *Ordinance Code*, is hereby amended to read as follows:

15 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

16 * * *

17 **PART 3. MUNICIPAL CODE COMPLIANCE DIVISION**

18 **Sec.34.301. - Establishment; functions.**

19 There is hereby created a Municipal Code Compliance Division
20 within the Neighborhoods Department. The Municipal Code Compliance
21 Division shall be responsible for administration and enforcement of
22 the City's laws concerning proper zoning, the safety and cleanliness
23 of private property, housing safety, nuisance abatement, floating
24 structures, derelict vessels, vessels at risk of becoming derelict,
25 weed control, animal control and similar subject matters. The
26 administration and enforcement of floating structures, derelict
27 vessels, and vessels at risk of becoming derelict may be shared with
28 the Environmental Quality Division, and shall utilize a law
29 enforcement officer as defined in Sec. 705.101(4), F.S. when boarding
30 a vessel or occupied floating structure.

31 * * *

1 Section 2. Amending TITLE III (Executive Branch), Chapter 34
2 (Neighborhoods Department), Part 4 (Environmental Quality Division),
3 Section 34.401 (Establishment; functions), *Ordinance Code*, is hereby
4 amended to read as follows:

5 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

6 * * *

7 **PART 4. ENVIRONMENTAL QUALITY DIVISION**

8 **Sec. 34.401. - Establishment; functions.**

9 There is created an Environmental Quality Division within the
10 Neighborhoods Department. The Environmental Quality Division shall
11 be responsible for the administration, operation and enforcement of
12 the air and water resources management activities of the City,
13 including the City's laws concerning floating structures, derelict
14 vessels, vessels at risk of becoming derelict, and other hazards to
15 the public health within the Waters of the County, as defined in
16 Chapter 388, Ordinance Code. The administration and enforcement of
17 floating structures, derelict vessels, and vessels at risk of becoming
18 derelict may be shared with the Municipal Code Compliance Division,
19 and shall utilize a law enforcement officer as defined in Sec.
20 705.101(4), F.S. when boarding a vessel or occupied floating
21 structure.

22 * * *

23 Section 3. Amending TITLE III (Executive Branch), Chapter 34
24 (Neighborhoods Department), Part 4 (Environmental Quality Division),
25 *Ordinance Code*, to create a new Section 34.403, *Ordinance Code*.

26 Chapter 34 (Neighborhoods Department), Part 4 (Environmental Quality
27 Division), *Ordinance Code*, is hereby amended to create a new section
28 to read as follows:

29 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

30 * * *

31 **PART 4. ENVIRONMENTAL QUALITY DIVISION**

1 * * *

2 **Section 34.403. - Enforcement Officers.**

3 For purposes of enforcing Chapter 388 (Boats and Waterways),
4 Ordinance Code, Environmental Quality Division employees authorized
5 to administer and enforce Chapter 388 are authorized as Code
6 Enforcement Officers, as defined in Chapter 609, *Ordinance Code*, and
7 share the enforcement duties with the Municipal Code Compliance
8 Division officers to carry out the enforcement of Chapter 388 on the
9 Waters of the County, as defined in Chapter 388, *Ordinance Code*, but
10 shall utilize a law enforcement officer as defined in Sec. 705.101(4),
11 F.S. when boarding a vessel or occupied floating structure. As such,
12 the Environmental Quality Division Code Enforcement Officers shall
13 utilize the powers conferred to Municipal Code Compliance Division
14 personnel, as well as the powers conferred by this Chapter.

15 **Section 4. Amending TITLE X (Environmental Affairs), Chapter 360**
16 **(Environmental Regulation), Part 1 (Public Policy; General**
17 **Provisions), Section 360.107 (Administration), Ordinance Code.**
18 Chapter 360 (Environmental Regulation), Part 1. (Public Policy;
19 General Provisions), Section 360.107 (Administration), *Ordinance*
20 *Code*, is hereby amended to read as follows:

21 **CHAPTER 360 ENVIRONMENTAL REGULATION**

22 **PART 1. PUBLIC POLICY**

23 * * *

24 **Sec. 360.107. - Administration.**

25 The Director shall be responsible for the administration of this
26 Chapter and of Chapters 362, 368, and 376, and 388, and for the
27 rules promulgated by the Board pursuant to ~~these~~ Chapters 362, 368
28 and 376, and shall make regular reports to the Board regarding
29 Chapters 362, 368 and 376. The Director shall also make annual
30 reports to the Waterways Commission, beginning with the Waterways
31 Commission meeting held in June 2021, regarding the enforcement of

1 floating structures, derelict vessels, and vessels at risk of becoming
2 derelict.

3 * * *

4 **Section 5. Amending TITLE X (Environmental Affairs), Ordinance Code,**
5 **to create a new Chapter 388 (Boats and Waterways).** Title X
6 (Environmental Affairs), *Ordinance Code*, is hereby amended to create
7 a new Chapter 388, to read as follows:

8 **TITLE X ENVIRONMENTAL AFFAIRS**

9 * * *

10 **Chapter 388 - BOATS AND WATERWAYS**

11 **PART 1. - WATERCRAFT REGULATIONS**

12 **Sec. 388.101. - Findings and legislative intent.**

13 (a) Pursuant to Sec. 327.60(3), F.S. (2019), the Florida Legislature
14 has expressly authorized local governments to enact regulations
15 that prohibit or restrict the mooring or anchoring of floating
16 structures, live-aboard vessels, and commercial vessels,
17 excluding commercial fishing vessels, within the local
18 government's jurisdiction.

19 (b) Pursuant to Sec. 327.02(14), F.S., the Florida Legislature has
20 defined "floating structures" and has expressly excluded
21 "floating structures" from the definition of the term "vessel."

22 (c) A "Floating Structure" is defined in Section 388.102, below.

23 (d) Pursuant to Chapter 253 of the Florida Statutes, the Board of
24 Trustees of the Internal Improvement Trust Fund is vested and
25 charged with, among other things, the administration,
26 management, control, supervision, conservation and protection
27 of all lands owned by the state by right of its sovereignty,
28 including sovereign submerged lands.

29 (e) Enabled by Chapter 253, F.S., the Florida Department of
30 Environmental Protection ("FDEP") has promulgated Rule 18-
31 21.004, Florida Administrative Code (2019), which outlines the

1 general proprietary powers of the FDEP and instructs that the
2 activities on sovereignty lands be, with very few exceptions as
3 outlined in the statute, limited to water dependent activities,
4 and that residential structures be prohibited on sovereignty
5 lands.

6 (f) The Floating Structures that have been observed in Duval County
7 pose a significant threat to the environment, human health, and
8 navigational safety as an obstruction to navigation through
9 deterioration, physical damage to the surrounding ecosystems,
10 through the proliferation of marine debris, or the threat of
11 discharge of sewage, oil and/or hazardous substances into the
12 marine environment, including materials left on the Floating
13 Structure if abandoned, and the potential use of the structure
14 as an illegal dumping site for oil and other hazardous
15 substances.

16 (g) The potential damage that a Floating Structure could cause to
17 persons or property is significant because they are not
18 regulated as vessels and thus are not required to meet even
19 basic structural capability or to provide basic safety equipment
20 for either their inhabitants or other mariners, such as lighting
21 equipment that would warn other mariners using the Waters of the
22 County that an obstacle was present in the marine environment.

23 (h) Additionally, Floating Structures are not required by the State
24 to register with the Florida Department of Highway Safety and
25 Motor Vehicles, so ownership and liability for the damage that
26 they may cause becomes a hindrance to enforcement.

27 (i) Floating Structures are hereby declared to be public nuisances,
28 and may also be "abandoned property" pursuant to Sec. 705.103,
29 Florida Statutes.

30 (j) It is the legislative intent of the City Council in enacting
31 this Chapter to provide additional or supplemental means of

1 obtaining compliance with the requirements stated herein.
2 Nothing contained in this Chapter shall be deemed to prohibit
3 the City from seeking enforcement by any other means provided
4 by law, including, but not limited to, filing an action for
5 declaratory and injunctive relief in a court of competent
6 jurisdiction.

7 (k) If any penalty of this Chapter is deemed inconsistent with any
8 Florida Statute, the provisions of the Florida Statute shall
9 prevail.

10 (l) The Council in enacting this Chapter is acting as the governing
11 body of Duval County, Florida. The area of enforcement of the
12 provisions of this Chapter shall be throughout and within the
13 boundaries of Duval County, Florida. The municipalities of
14 Atlantic Beach, Neptune Beach, and Jacksonville Beach within
15 Duval County are also authorized to administer and enforce the
16 provisions of this Chapter either individually, or in
17 partnership with the City or each other, or both.

18 **Sec. 388.102. - Definitions.**

19 For the purpose of this Chapter, the following terms, phrases,
20 words, abbreviations and their derivations shall have the meaning
21 given herein. When not inconsistent with the context, words used in
22 the present tense include the future tense, words in the plural number
23 include the singular number and words in the singular number include
24 the plural number. The word "shall" is always mandatory and not merely
25 directory. Words not defined shall be given their meaning as provided
26 in Sec. 1.102 (Definitions and rules of construction), Ordinance
27 Code.

28 *Abandoned property* means, pursuant to Sec. 705.101(3), F.S., all
29 tangible personal property that does not have an identifiable owner
30 and that has been disposed on public property in a wrecked,
31 inoperative, or partially dismantled condition or has no apparent

1 intrinsic value to the rightful owner. The term includes derelict
2 vessels as defined in Sec. 823.11, F.S. Sec. 705.101(3), F.S. The
3 term is also defined in Sec. 670.101, Ordinance Code, to mean wrecked
4 or derelict personal property, including wrecked, inoperative or
5 partially dismantled motor vehicles; trailers; boats; machinery;
6 refrigerators, washing machines, stoves, hot water heaters and other
7 household appliances; plumbing fixtures; and furniture.

8 *Abandoned vessel* means abandoned property pursuant to Sec.
9 705.101(3), F.S., which includes "derelict vessels" as defined in
10 Sec. 823.11, F.S., as stated below. See also Sec. 670.101(a),
11 *Ordinance Code*.

12 *Anchoring* means the act of securing a vessel or dinghy in
13 navigable Waters of the County by means of an anchor or other device
14 and associated tackle that is carried on board the vessel and cast
15 or dropped overboard.

16 *Barge* means a vessel that does not have living quarters, is not
17 propelled by its own power, and is designed to be pushed or pulled
18 by another vessel. See also, Sec. 327.02(3), F.S.

19 *City* means the City of Jacksonville, Florida.

20 *Code Enforcement Officer* means any designated or authorized
21 employee or agent of the City whose duty it is to enforce or assure
22 compliance with ordinances enacted by the City.

23 *Commercial Marina* means a licensed and permitted commercial
24 facility that provides secured public moorings or dry storage for
25 vessels on a leased basis.

26 *County* means Duval County, Florida.

27 *Derelict vessel*, pursuant to Sec. 823.11, F.S., means a vessel,
28 as defined in Sec. 327.02, F.S. that is left, stored, or abandoned:

29 1. In a wrecked, junked, or substantially dismantled condition
30 upon any public waters of this state.

1 2. At a port in this state without the consent of the agency
2 having jurisdiction thereof.

3 3. Docked, grounded, or beached upon the property of another
4 without the consent of the owner of the property.

5 *Dinghy* means any vessel not exceeding twelve (12) feet designed
6 for and used primarily to serve a larger vessel by transporting
7 persons and/or property to and from the larger vessel, from or to
8 other vessels, piers, docks, or landing facilities.

9 *Effective means of propulsion for safe navigation* means a
10 vessel, other than a barge, that meets the requirements of Rule 68D-
11 15.002, F.A.C. (Effective Means of Propulsion for Safe Navigation),
12 and is equipped with one of the following:

13 (a) A functioning motor, controls, and steering system; or

14 (b) Rigging and sails that are present and in good working
15 order, and a functioning steering system. See also, Sec. 327.02(13),
16 F.S.

17 *Floating Structure* means, pursuant to Sec. 327.02(14), F.S.,

18 (a) a floating entity,

19 (b) with or without accommodations built thereon,

20 (c) which is not primarily used as a means of transportation
21 on water but which serves purposes or provides services typically
22 associated with a structure or other improvement to real property.

23 The term "Floating Structure" includes, but is not limited to,
24 each entity used as a residence, place of business or office with
25 public access, hotel or motel, restaurant or lounge, clubhouse,
26 meeting facility, storage or parking facility, mining platform,
27 dredge, dragline, or similar facility or entity represented as such.
28 Floating Structures are expressly excluded from the definition of the
29 term "vessel" provided in this Chapter. Incidental movement upon
30 water or resting partially or entirely on the bottom shall not, in

1 and of itself, preclude an entity from classification as a Floating
2 Structure.

3 *Houseboat* means a vessel that is used primarily as a residence
4 for at least 21 days during any 30-day period in a Florida county if
5 such residential use of the vessel is to the preclusion of its use
6 as a means of transportation. See also, Sec. 327.02(17), F.S.

7 *In the same area* means a vessel that is within a radius of eight
8 (8) miles of any location where the vessel was previously moored or
9 anchored within the last six (6) months.

10 *Law enforcement officer* means any person who is elected,
11 appointed, or employed full time by any sheriff, any municipality,
12 or the state or any political subdivision thereof; who is vested with
13 the authority to bear arms and make arrests; and whose primary
14 responsibility is the prevention and detection of crime or the
15 enforcement of the penal, criminal, traffic or highway laws of the
16 state. See also, Sec. 705.101(4), F.S.

17 *License agreement* means any transient dockage agreement, mooring
18 and dockage agreement, commercial dockage agreement, or mooring
19 agreement entered into between the City or a commercial marina, and
20 a vessel owner for dockage at a city dock or mooring facility.

21 *Licensee* means the person or entity entering into or possessing
22 a dockage or mooring license agreement with the City.

23 *Live-aboard vessel*, pursuant to F.S. § 327.02, means:

24 (a) A vessel used solely as a residence and not for navigation;

25 (b) A vessel for which a declaration of domicile has been filed
26 pursuant to s. 222.17, F.S. (Homestead and Exemptions: Manifesting
27 and evidencing domicile in Florida); or

28 (c) A vessel used as a residence that does not have an effective
29 means of propulsion for safe navigation.

30 A commercial fishing vessel is expressly excluded from the term
31 "live-aboard vessel."

1 *Marine sanitation device* means equipment, other than a toilet,
2 for installation on board a vessel which is designed to receive,
3 retain, treat, or discharge sewage, and any process to treat such
4 sewage. Marine sanitation device Types I, II, and III shall be
5 defined as provided in 33 C.F.R. part 159. See also, Sec. 327.02(26),
6 F.S.

7 *Mooring* means the act of securing a vessel in navigable Waters
8 of the County by means of a permanent or semi-permanent mooring system
9 affixed to the bottom.

10 *Mooring field* means city-designated areas in and adjacent to
11 city-installed mooring systems, which may include city and state-
12 owned harbor or bayou bottoms but which exclude privately owned harbor
13 bottoms.

14 *Mooring system* means any weight, chain, rope, floating object,
15 structure or appliance used for the purpose of holding a vessel in a
16 particular place and which is not carried on board such vessel as
17 regular equipment when the vessel is underway.

18 *Operator* means every person who shall own, physically operate,
19 navigate or control any vessel.

20 *Owner* means a person, other than a lienholder, having the
21 property in or title to a vessel. See also, Sec. 327.02(34), F.S.

22 *Portable toilet* means a device consisting of a lid, seat,
23 containment vessel, and support structure which is specifically
24 designed to receive, retain, and discharge human waste and which is
25 capable of being removed from a vessel by hand. See also, Sec.
26 327.02(37), F.S.

27 *Public property* means lands and improvement owned by the Federal
28 Government, the state, the county, or a municipality and includes
29 sovereignty submerged lands located adjacent to the county or
30 municipality, buildings, grounds, parks, playgrounds, streets,

1 sidewalks, parkways, rights-of-way, and other similar property. See
2 also, Sec. 705.101(5), F.S.

3 *Registration* means a state operating license on a vessel which
4 is issued with an identifying number, an annual certificate of
5 registration, and a decal designating the year for which a
6 registration fee is paid. See also, Sec. 327.02(41), F.S.

7 *Vessel*, is synonymous with "boat" as referenced in s. 1(b), Art.
8 VII of the State Constitution and includes every description of
9 watercraft, barge, and airboat, other than a seaplane on the water,
10 used or capable of being used as a means of transportation on water.
11 See also, Sec. 327.02(46), F.S.

12 *Waters of the County* means all portions of those waters, up to
13 and including the mean high water mark, located within the limits of
14 the County, including, but not limited to, all navigable and non-
15 navigable waterways, canals, lagoons, bayous, bays, rivers, lakes,
16 streams, springs, impoundments, and all other bodies of water,
17 including fresh, brackish, saline, tidal surface or underground, and
18 including surface waters created by the removal of soil from uplands,
19 but excluding any area preempted by law.

20 **Sec. 388.103. - Administration.**

21 The Director of the Neighborhoods Department shall be
22 responsible for the administration of this Chapter for the City of
23 Jacksonville and will cooperate with the second, third, and fourth
24 urban services districts (the Beaches communities) in the enforcement
25 of this Chapter.

26 **Sec. 388.104. - Floating Structures prohibited.**

27 All Floating Structures are prohibited from anchoring, docking,
28 or mooring in any Waters of the County, unless specifically exempt
29 pursuant to this Chapter, and are subject to the penalties and
30 enforcement pursuant to this Chapter and other laws as may be
31 referenced. Floating Structures, as determined by the agencies of the

1 Environmental Quality Division, Municipal Code Compliance Division,
2 or a law enforcement officer, are declared a public nuisance and in
3 certain circumstances may be handled as abandoned property on public
4 property.

5 **Sec. 388.105. - Exemption from enforcement of Floating**
6 **Structures.**

7 Commercial or governmental Floating Structures that are designed
8 for, and in use by, a licensed marine contractor for water-dependent
9 construction or shoreside vessel operation are exempt from the
10 prohibition on Floating Structures in the County. However, inactivity
11 of such a structure for a period greater than ten (10) days within a
12 thirty (30) day period if moored outside of a commercial marina or a
13 sovereign submerged land lease, and within the same area (eight (8)
14 mile radius), will be considered to be "not in use" and thus subject
15 to all enforcement mechanisms in this Chapter.

16 **Sec. 388.108. - Obstructing channels; unlawful anchoring,**
17 **mooring or docking.**

18 It shall be unlawful: (1) for any vessel or Floating Structure
19 within the County to tie up to any navigational aid within the County;
20 except in an emergency; or (2) to anchor or moor any Floating
21 Structure within Waters of the County.

22 **PART 2. - ENFORCEMENT AUTHORITY**

23 **Sec. 388.201. - Enforcement Officers.**

24 (a) The provisions of this Chapter shall be enforced by
25 members of all duly authorized law enforcement agencies
26 within the County and its municipalities, as well as the
27 Jacksonville Environmental Quality Division and the
28 Jacksonville Municipal Code Compliance Division.

29 (b) The Director shall be responsible for the development of
30 a tracking system to record complaints, inspections,

1 notifications, removals, and a general record of the
2 business done with regard to this Chapter.

3 **Sec. 388.202. - Inspections.**

4 Enforcement Officers, upon belief that a violation of this
5 Chapter exists, may make an inspection to determine if the possible
6 Floating Structure is a Floating Structure, and not some other form
7 of object, in the interest of safeguarding the health, safety and
8 general welfare of the public.

9 **Sec. 388.203. - Right of entry.**

10 (a) Enforcement Officers are authorized to board a possible
11 Floating Structure at any reasonable time for the purpose
12 of performing their duties under this Chapter, so long as a
13 law enforcement officer is utilized for boarding the
14 possible Floating Structure if it is occupied. If any
15 owner, occupant or other person in charge of the possible
16 Floating Structure subject to the provisions of this Code
17 refuses, impedes, inhibits, interferes with, or obstructs
18 lawful entry or access to any part of the Floating
19 Structure where an inspection authorized by this Chapter is
20 sought, the Enforcement Officer may seek an inspection
21 warrant pursuant to Florida law.

22 (b) At the time of inspection, the Enforcement Officer shall
23 properly identify himself/herself.

24 (c) In cases of emergency where extreme hazards are known to
25 exist which may involve the loss of life or severe property
26 damage, the limitations of this Section shall not apply.

27 (d) The Director, or other Enforcement Officer, shall have
28 the right of entry upon Floating Structures while in the
29 discharge of his duties in removing, terminating or abating
30 a public nuisance under this Chapter.

31 **Sec. 388.204. - Liability.**

1 An officer or employee of the City, Enforcement Officer, or a
2 member of the City's Special Magistrate, any of whom is charged with
3 the enforcement of this Chapter in the discharge of his/her duties,
4 shall not thereby render themselves personally liable and he/she is
5 hereby relieved from all personal liability for damage that may accrue
6 to persons or property as a result of an act required or in the
7 discharge of his/her duties. A suit brought against an officer,
8 employee or member permitted because of this Chapter shall be defended
9 by the Office of the General Counsel until the final termination of
10 the proceedings.

11 **Part 3. - VIOLATIONS, PENALTIES AND ENFORCEMENT**

12 **Sec. 388.301. - Violation notices and service.**

13 Whenever an Enforcement Officer determines that a Floating
14 Structure exists in the Waters of the County, he/she shall direct the
15 owner or occupant, if any, to remove the Floating Structure within a
16 specified reasonable time. Such notice shall be considered effective
17 upon hand delivery of the notice to the owner or occupant by an
18 Enforcement Officer or by leaving the notice on the property
19 determined to be a Floating Structure and by posting the notice at
20 City Hall of the agency providing the enforcement.

21 **Sec. 388.302. - Form of notice.**

22 The notice shall be in writing, set forth the alleged violation,
23 provide a reasonable time, not less than twenty-one (21) days for the
24 removal of the Floating Structure from the Waters of the County, and
25 include a statement that the owner or occupant shall be subject to
26 the penalties provided in this Chapter in the event that the Floating
27 Structure is not removed within the time specified. If practical,
28 the form of notice may be in substantially the same form as the notice
29 provided by the Florida Fish and Wildlife Conservation Commission
30 ("FWC") in the enforcement of derelict vessels.

31 **Sec. 388.303. - Enforcement; civil remedies.**

- 1 (a) The provisions of this Chapter shall be enforced by members of
2 all duly authorized law enforcement agencies within the County
3 and its municipalities, as well as the Jacksonville
4 Environmental Quality Division and the Jacksonville Municipal
5 Code Compliance Division.
- 6 (b) The provisions of this Chapter shall be enforced by any available
7 method under law or equity, and as provided in Chapter 609 (Code
8 Enforcement Citations) *Ordinance Code*, Ch. 162, Pt. II, F.S.
9 (Supplemental County or Municipal Code or Ordinance Enforcement
10 Procedures), and by such other means as are specified herein
11 below.
- 12 (c) Violations of the provisions of this Chapter can be prosecuted
13 through any administrative board with authority to impose
14 administrative fines and civil penalties for violations of the
15 provisions of this Chapter, including the specific authority to
16 order the City to abate any violation of this Chapter if a
17 violation has not been corrected within a specified reasonable
18 time as determined by the Special Magistrate, or through any
19 supplemental method established under the *Ordinance Code*,
20 Florida Statutes or common law.
- 21 (d) The City shall have the right to utilize any available method
22 to obtain restitution for the cost of abating a Floating
23 Structure under this Chapter, which includes but is not limited
24 to towing, removing, destroying, and disposing of the Floating
25 Structure. Restitution for such abatement shall be placed into
26 the Derelict Vessel and Floating Structure Removal Fund.
- 27 (e) Notwithstanding the above, the City shall also be authorized to
28 obtain the assistance of the courts to abate a Floating
29 Structure. In such cases, the Chief shall request and obtain
30 legal representation from the Office of General Counsel, to
31 commence and maintain the necessary action in the appropriate

1 court to assist the Chief in carrying out their responsibilities
2 under this Chapter. The action may encompass any or all of the
3 following proceedings:

4 (1) To make application for an injunction or restraining order,
5 whether temporary or permanent, to prevent a person from
6 maintaining a Floating Structure within the Waters of the
7 County.

8 (2) To enjoin and abate the Floating Structure.

9 (3) To compel the performance of any act specifically required
10 of any person to abate a Floating Structure.

11 (4) To authorize the City to abate the Floating Structure with
12 City personnel, or through a private contractor, and to
13 seek restitution for the cost of abating the Floating
14 Structure.

15 (f) Each day during any portion of which a violation of this Chapter
16 occurs shall constitute a separate offense.

17 (g) It is the legislative intent of the City Council in enacting this
18 Chapter to provide an additional or supplemental means of
19 obtaining compliance with the requirements stated herein.
20 Nothing contained in this Chapter shall be deemed to prohibit
21 the City of Jacksonville from seeking enforcement by any other
22 means provided by law, including, but not limited to, filing an
23 action for declaratory and injunctive relief in a court of
24 competent jurisdiction.

25 **Sec. 388.304. - Penalties.**

26 (a) Civil penalty: Unless otherwise specified, a violation of this
27 Chapter shall be a Class F offense, as described in Schedule 1-
28 A of Section Sec. 609.109 (Applicable Chapters and Parts),
29 *Ordinance Code*. The penalty shall be in addition to the cost,
30 if any, incurred by the City or other law enforcement agencies
31 to abate the Floating Structure.

1 (b) Regarding repeat violations, as defined in Chapter 609,
2 notwithstanding Sec. 609.105, *Ordinance Code*, the penalty for
3 the second determined violation is twice the amount of the first
4 offender fine. The penalty of the third determined violation
5 is three times the amount of the first offender fine.

6 (c) Criminal penalties: A violation of this Chapter may be
7 punishable:

8 (1) as a misdemeanor by a fine of up to five hundred dollars
9 (\$500.00) per violation and a definite term of imprisonment of
10 not more than sixty (60) days as provided in Sec. 162.22. F.S.
11 (Designation of enforcement methods and penalties for violation
12 of municipal ordinances); or

13 (2) as litter pursuant to Sec. 403.413, Florida Statutes.

14 (d) If any penalty of this section is deemed inconsistent with any
15 Florida Statute, the provisions of the Florida Statute shall
16 prevail.

17 **Section 6. Amending TITLE XVI (Judicial Code), Chapter 609 (Code**
18 **Enforcement Citations), Section 609.109 (Applicable Chapters and**
19 **Parts), Schedule "A", Ordinance Code.** Chapter 609 (Code Enforcement
20 Citations), Section 609.109 (Applicable Chapters and Parts), Schedule
21 "A", is hereby amended to read as follows:

22 **CHAPTER 609 CODE ENFORCEMENT CITATIONS**

23 * * *

24 **Sec. 609.109. - Applicable Chapters and Parts.**

25 The following provisions of the Ordinance Code are subject to
26 enforcement by citation. Where a Chapter or Part of a Chapter of the
27 Code is referenced, then all Sections within that Chapter or Part are
28 subject to enforcement by citation.

29 SCHEDULE "A"
30

CODE PROVISION	DESCRIPTION	CLASS
* * *	* * *	* * *
Chapter 382, Part 2	Waste Collection, Standards of Service	D
<u>Chapter 388</u>	<u>Boats and Waterways</u>	<u>F</u>
* * *	* * *	* * *

1
2 **Section 7. Revising the Purpose for the appropriation of \$44,000**
3 **in Ordinance 2019-250-E.** The new boat and trailer purchased for the
4 Environmental Quality Division with the \$44,000 appropriated by
5 Ordinance 2019-250-E is hereby amended to include use of the boat for
6 purposes of administering and enforcing Chapter 388, Ordinance Code.

7 **Section 8. Amending TITLE V (Administration and Personnel),**
8 **Chapter 110 (City Treasury), Part 4 (Continuing Appropriations),**
9 **Section 110.414 (Derelict Vessel Removal Fund), Ordinance Code.**
10 Chapter 110 (City Treasury), Part 4 (Continuing Appropriations),
11 Section 110.414 (Derelict Vessel Removal Fund) is hereby amended to
12 read as follows:

13 **CHAPTER 110 CITY TREASURY**

14 *** * ***

15 **PART 4. CONTINUING APPROPRIATIONS**

16 *** * ***

17 **Sec. 110.414. - Derelict Vessel and Floating Structure Removal**
18 **Fund.**

19 There is hereby created an account to be known as the *Derelict*
20 *Vessel and Floating Structure Removal Fund*. The Fund may be funded
21 periodically by the City Council in amounts to be determined by
22 Council.

1 (a) Derelict Vessels. Grant funds awarded to the City by the
2 State of Florida from the Florida Coastal Protection Trust
3 Fund for removing derelict vessels from County waters shall
4 also be deposited in the fund and shall be automatically
5 appropriated for derelict vessel removal without further
6 Council action. The monies in this account collected from the
7 Florida Coastal Protection Trust Fund shall be used to remove
8 vessels from County waters which have been declared derelict
9 by the Division of Law Enforcement of the Florida Fish and
10 Wildlife Conservation Commission's Division of Law
11 Enforcement, and for which the State of Florida has approved a
12 grant. The Director of the Department of Recreation and Parks
13 Neighborhoods shall be authorized and responsible for applying
14 for derelict vessel removal grants from the State, if
15 practicable, and arranging for removal of such vessels.
16 Should abatement reimbursement be obtained for the removal of
17 a derelict vessel, such abatement funds, or other unrestricted
18 monies, shall also be placed in this Fund and may be used to
19 remove derelict vessels, determined as such by the Florida
20 Fish and Wildlife Conservation Commission, or by the
21 enforcement officers as described in Chapter 388, Part 2
22 (Enforcement Authority), Ordinance Code, or Floating
23 Structures.

24 (b) Floating Structures. Funds recovered for the abatement
25 or removal of Floating Structures, or other monies, shall be
26 placed in this Fund and may be used for the removal of
27 Floating Structures or derelict vessels. These funds shall be
28 automatically appropriated for Floating Structure removal
29 without further Council action.

30 (c) All monies deposited into this account shall carry over
31 fiscal years to be used for the purposes herein described.

1 Nothing in this section shall prohibit or otherwise limit any
2 appropriations which may be made by the Council, or others,
3 for removing derelict vessels and Floating Structures from
4 County waters.

5 **Section 9. Codification Instructions.** The Codifier and the
6 Office of General Counsel are authorized to make all chapter and
7 division "tables of contents" consistent with the changes set forth
8 herein, including renumbering of sections. Such editorial changes
9 and any others necessary to make the Ordinance Code shall be made
10 forthwith and when inconsistencies are discovered.

11 **Section 10. Effective Date.** This ordinance shall become
12 effective upon signature by the Mayor or upon becoming effective
13 without the Mayor's signature.

14
15 Form Approved:

16 /s/ Susan C. Grandin

17 Office of General Counsel

18 Legislation Prepared by: Susan C. Grandin

19 GC-#1394202-v11-2020-589_NCSPHS_Sub.docx