

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-E**

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

31 **WHEREAS**, the DV/FS Committee proposed this draft Ordinance to

1 the full Waterways Commission on September 9, 2020 as a structural
2 beginning to combat the dangerous and unsanitary condition presented
3 by floating structures and derelict vessels; and

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

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

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

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

14 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

15 * * *

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

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

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

30 * * *

31 **Section 2. Amending TITLE III (Executive Branch), Chapter**

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

4 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

5 * * *

6 **PART 4. ENVIRONMENTAL QUALITY DIVISION**

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

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

21 * * *

22 **Section 3. Amending TITLE III (Executive Branch), Chapter**
23 **34 (Neighborhoods Department), Part 4 (Environmental Quality**
24 **Division), Ordinance Code, to create a new Section 34.403, Ordinance**
25 **Code.** Chapter 34 (Neighborhoods Department), Part 4 (Environmental
26 Quality Division), *Ordinance Code*, is hereby amended to create a new
27 section to read as follows:

28 **CHAPTER 34 NEIGHBORHOODS DEPARTMENT**

29 * * *

30 **PART 4. ENVIRONMENTAL QUALITY DIVISION**

31 * * *

Section 34.403. - Enforcement Officers.

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

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

CHAPTER 360 ENVIRONMENTAL REGULATION**PART 1. PUBLIC POLICY**

* * *

Sec. 360.107. - Administration.

The Director shall be responsible for the administration of this Chapter and of Chapters 362, 368, ~~and 376,~~ and 388, and for the rules promulgated by the Board pursuant to these Chapters 362, 368 and 376, and shall make regular reports to the Board regarding Chapters 362, 368 and 376. The Director shall also make annual reports to the Waterways Commission, beginning with the Waterways Commission meeting held in June 2021, regarding the enforcement of floating structures, derelict vessels, and vessels at risk of becoming

1 derelect.

2 * * *

3 **Section 5. Amending TITLE X (Environmental Affairs),**
4 **Ordinance Code, to create a new Chapter 388 (Boats and Waterways).**

5 Title X (Environmental Affairs), *Ordinance Code*, is hereby amended
6 to create a new Chapter 388, to read as follows:

7 **TITLE X ENVIRONMENTAL AFFAIRS**

8 * * *

9 **Chapter 388 - BOATS AND WATERWAYS**

10 **PART 1. - WATERCRAFT REGULATIONS**

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

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

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

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

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

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

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

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

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

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

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

29 (j) It is the legislative intent of the City Council in enacting
30 this Chapter to provide additional or supplemental means of
31 obtaining compliance with the requirements stated herein.

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

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

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

17 **Sec. 388.102. - Definitions.**

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

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

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

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

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

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

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

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

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

25 *County* means Duval County, Florida.

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

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

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

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

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

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

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

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

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

16 (a) a floating entity,

17 (b) with or without accommodations built thereon,

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

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

31 *Houseboat* means a vessel that is used primarily as a residence

1 for at least 21 days during any 30-day period in a Florida county if
2 such residential use of the vessel is to the preclusion of its use
3 as a means of transportation. See also, Sec. 327.02(17), F.S.

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

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

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

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

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

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

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

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

27 A commercial fishing vessel is expressly excluded from the term
28 "live-aboard vessel."

29 *Marine sanitation device* means equipment, other than a toilet,
30 for installation on board a vessel which is designed to receive,
31 retain, treat, or discharge sewage, and any process to treat such

1 sewage. Marine sanitation device Types I, II, and III shall be
2 defined as provided in 33 C.F.R. part 159. See also, Sec. 327.02(26),
3 F.S.

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

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

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

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

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

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

24 *Public property* means lands and improvement owned by the Federal
25 Government, the state, the county, or a municipality and includes
26 sovereignty submerged lands located adjacent to the county or
27 municipality, buildings, grounds, parks, playgrounds, streets,
28 sidewalks, parkways, rights-of-way, and other similar property. See
29 also, Sec. 705.101(5), F.S.

30 *Registration* means a state operating license on a vessel which
31 is issued with an identifying number, an annual certificate of

1 registration, and a decal designating the year for which a
2 registration fee is paid. See also, Sec. 327.02(41), F.S.

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

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

16 **Sec. 388.103. - Administration.**

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

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

23 All Floating Structures are prohibited from anchoring, docking,
24 or mooring in any Waters of the County, unless specifically exempt
25 pursuant to this Chapter, and are subject to the penalties and
26 enforcement pursuant to this Chapter and other laws as may be
27 referenced. Floating Structures, as determined by the agencies of the
28 Environmental Quality Division, Municipal Code Compliance Division,
29 or a law enforcement officer, are declared a public nuisance and in
30 certain circumstances may be handled as abandoned property on public
31 property.

1 **Sec. 388.105. - Exemption from enforcement of Floating**
2 **Structures.**

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

12 **Sec. 388.106. - Obstructing channels; unlawful anchoring,**
13 **mooring or docking.**

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

18 **PART 2. - ENFORCEMENT AUTHORITY**

19 **Sec. 388.201. - Enforcement Officers.**

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

25 (b) The Director shall be responsible for the development of
26 a tracking system to record complaints, inspections,
27 notifications, removals, and a general record of the
28 business done with regard to this Chapter.

29 **Sec. 388.202. - Inspections.**

30 Enforcement Officers, upon belief that a violation of this
31 Chapter exists, may make an inspection to determine if the possible

1 Floating Structure is a Floating Structure, and not some other form
2 of object, in the interest of safeguarding the health, safety and
3 general welfare of the public.

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

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

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

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

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

26 **Sec. 388.204. - Liability.**

27 An officer or employee of the City, Enforcement Officer, or a
28 member of the City's Special Magistrate, any of whom is charged with
29 the enforcement of this Chapter in the discharge of his/her duties,
30 shall not thereby render themselves personally liable and he/she is
31 hereby relieved from all personal liability for damage that may accrue

1 to persons or property as a result of an act required or in the
2 discharge of his/her duties. A suit brought against an officer,
3 employee or member permitted because of this Chapter shall be defended
4 by the Office of the General Counsel until the final termination of
5 the proceedings.

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

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

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

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

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

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

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

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

1 maintaining a Floating Structure within the Waters of the
2 County.

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

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

6 (4) To authorize the City to abate the Floating Structure with
7 City personnel, or through a private contractor, and to
8 seek restitution for the cost of abating the Floating
9 Structure.

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

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

20 **Sec. 388.304. - Penalties.**

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

27 (b) Regarding repeat violations, as defined in Chapter 609,
28 notwithstanding Sec. 609.105, *Ordinance Code*, the penalty for
29 the second determined violation is twice the amount of the first
30 offender fine. The penalty of the third determined violation
31 is three times the amount of the first offender fine.

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

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

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

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

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

CHAPTER 609 CODE ENFORCEMENT CITATIONS

* * *

Sec. 609.109. - Applicable Chapters and Parts.

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

SCHEDULE "A"

CODE PROVISION	DESCRIPTION	CLASS
* * *	* * *	* * *
Chapter 382, Part 2	Waste Collection, Standards of Service	D

1 Florida Coastal Protection Trust Fund shall be used to remove
2 vessels from County waters which have been declared derelict
3 by the Division of Law Enforcement of the Florida Fish and
4 Wildlife Conservation Commission's Division of Law
5 Enforcement, and for which the State of Florida has approved a
6 grant. The Director of the Department of Recreation and Parks
7 Neighborhoods shall be authorized and responsible for applying
8 for derelict vessel removal grants from the State, if
9 practicable, and arranging for removal of such vessels.
10 Should abatement reimbursement be obtained for the removal of
11 a derelict vessel, such abatement funds, or other unrestricted
12 monies, shall also be placed in this Fund and may be used to
13 remove derelict vessels, determined as such by the Florida
14 Fish and Wildlife Conservation Commission, or by the
15 enforcement officers as described in Chapter 388, Part 2
16 (Enforcement Authority), Ordinance Code, or Floating
17 Structures.

18 (b) Floating Structures. Funds recovered for the abatement
19 or removal of Floating Structures, or other monies, shall be
20 placed in this Fund and may be used for the removal of
21 Floating Structures or derelict vessels. These funds shall be
22 automatically appropriated for Floating Structure removal
23 without further Council action.

24 (c) All monies deposited into this account shall carry over
25 fiscal years to be used for the purposes herein described.
26 Nothing in this section shall prohibit or otherwise limit any
27 appropriations which may be made by the Council, or others,
28 for removing derelict vessels and Floating Structures from
29 County waters.

30 **Section 9. Codification Instructions.** The Codifier and the
31 Office of General Counsel are authorized to make all chapter and

1 division "tables of contents" consistent with the changes set forth
2 herein, including renumbering of sections. Such editorial changes
3 and any others necessary to make the Ordinance Code shall be made
4 forthwith and when inconsistencies are discovered.

5 **Section 10. Effective Date.** This ordinance shall become
6 effective upon signature by the Mayor or upon becoming effective
7 without the Mayor's signature.

8

9 Form Approved:

10

11 /s/ Shannon K. Eller

12 Office of General Counsel

13 Legislation Prepared by: Susan C. Grandin

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