

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, TOLLING THE CURRENT MORATORIUM PREVIOUSLY ENACTED BY ORDINANCE NO. 4133, AND EXTENDED BY ORDINANCE NO. 4141, FOR THE PERIOD REMAINING ON THE MORATORIUM FROM APRIL 1, 2020, WHEN GOVERNOR DESANTIS ENACTED EXECUTIVE ORDER 20-91 DIRECTING ALL CITIZENS OF THE STATE OF FLORIDA TO LIMIT THEIR MOVEMENTS AND REMAIN AT HOME IN RESPONSE TO THE TO THE PUBLIC HEALTH EMERGENCY OF COVID-19 FOR THE DURATION OF EXECUTIVE ORDER 20-19, INCLUDING ANY MODIFICATIONS OR EXTENSIONS THEREOF BY GOVERNOR DESANTIS AS TO THE FILING, RECEIVING OR PROCESSING OF ANY APPLICATION OR PERMIT ASSOCIATED WITH LANDS HAVING A SPECIAL PRESERVATION FUTURE LAND USE DESIGNATION, IN WHOLE OR IN PART, INCLUDING SUBMERGED LANDS AND UPLANDS, OR LANDS DEFINED AS WETLANDS OR A WETLANDS PRESERVATION AREA WITHIN CHAPTER 23, ARTICLE III, OF THE CITY'S CODE OR ORDINANCES, IN ORDER TO REVIEW, AMEND AND DEVELOP CODES AND LAND DEVELOPMENT REGULATIONS ASSOCIATED WITH THE CITY'S COMPREHENSIVE PLAN AND THE SPECIAL PRESERVATION FUTURE LAND USE DESIGNATION, ALONG WITH CODES FOR COASTAL CONSTRUCTION AND WETLANDS PRESERVATION, IN ORDER TO PROTECT AND CONSERVE THE CITY'S NATURAL RESOURCES; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 17, 2019, City staff received a City Council directive to draft a moratorium associated with development of the area located west of North Ocean Drive and north of Pine Point Road, having a Special Preservation Future Land Use designation, for future City Council review and consideration, in order to better protect and conserve the City's natural resources; and

WHEREAS, multiple Elements, Goals, Objectives and Policies of the City's Comprehensive Plan, including but not limited to the Future Land Use Element, the Conservation Element and the Coastal Management Element, are applicable to the submerged land area and uplands located west of North Ocean Drive and north of Pine Point Road; and

WHEREAS, Goal 1, Objective 1.1 of the Conservation Element of the City's Comprehensive Plan states that, the City shall continue to implement, revise, maintain and adopt

new codes, ordinances and regulations as necessary, to protect and conserve the City's natural resources including, Air; Beaches and shores; Fisheries; Native plant and animal communities and ecosystems; Noise level; Wetlands; Soils; Water; Wildlife and wildlife habitats; and Bottomlands; and

WHEREAS, Chapter 23, Article III, of the City's Code of Ordinances defines, describes and regulates wetlands preservation areas; and

WHEREAS, the City Council desired to enact a moratorium prohibiting the filing receiving or processing of any application or permit associated with real property having a Special Preservation Future Land Use designation or designated as a wetlands preservation area, in order to provide City staff with time to review, amend and develop codes to further protect and conserve the City's natural resources; and

WHEREAS, on June 5, 2019, the City Council approved a Moratorium on development applications associated with lands having a Special Preservation Future Land Use Designation, and also on Submerged Lands, for up to 180 days, by adopting Ordinance No. 4133, which was set to expire on December 2, 2019; and

WHEREAS, discussion of this moratorium, including progress to date, occurred during the October 5, 2019 City Council Workshop; and

WHEREAS, City staff experienced significant work delays due to a citywide computer system cyber-attack; and

WHEREAS, City staff proposed a time extension to the active moratorium adopted by Ordinance No. 4133, not to exceed an additional 180 days, for a total time period not to exceed 360 days, which would expire on May 30, 2020; and

WHEREAS, the City Council approved the abovementioned extension by Ordinance No. 4141, on November 25, 2019, resulting in a new expiration date of May 30, 2020; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52 declaring a State of Emergency for the State of Florida as a result of COVID-19, a global pandemic; and

WHEREAS, on March 18, 2020, pursuant to Section 252.38, Florida Statutes, the City of Riviera Beach declared a local State of Emergency, waiving the procedures and formalities otherwise required by ordinance pertaining to expenditures, empowering the City Manager to exercise all powers and duties to provide for the health, safety, and welfare of persons and property of the community; and

WHEREAS, on March 20, 2020, Governor DeSantis issued Executive Order 20-69 suspending the requirement that a quorum be physically present or that requires the local government to meet at a specific public place; and allowing the local government body to utilize

communications media technology, such as telephonic and video conferencing in order to hold the public meeting; and

WHEREAS, on April 1, 2020, Governor DeSantis issued Executive Order 20-91 mandating that all state citizens to limit their movement outside of their homes to mitigate against the spread of COVID-19. This Order is in effect until April 30, 2020, unless extended by subsequent order; and

WHEREAS, in response to the growing COVID-19 Pandemic and in response to Governor DeSantis' Executive Order 20-91, the City Council ordered all non-essential services and operations of the City to close and directed City non-essential City employees and staff to remain at home in compliance with Governor DeSantis' Executive Order 20-91 until April 30, 2020;

WHEREAS, the current COVID-19 pandemic and responsive federal, state, and local orders have prevented the City from proceeding with customary public hearings with customary public comment, which are required in order to adopt new land development regulations, including, but not limited to public hearings before the Planning and Zoning Board and City Council; and

WHEREAS, City staff is proposing to toll the period remaining on the Moratorium from April 1, 2020, when Governor DeSantis issued Executive Order 20-91 mandating that all state citizens limit their movements outside the home until the expiration of Executive Order 20-91 on April 30, 2020, unless the duration of Executive Order 20-91 is extended by further action of Governor DeSantis ; and

WHEREAS, the City Council has determined that tolling the active time period of the Moratorium adopted by Ordinance No. 4133, and previously extended by Ordinance No. 4141 for the duration of Governor DeSantis' Executive Order 20-91, including any extension thereof, is in the best interest of the lives, health, safety and welfare of the City's residents and stakeholders.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings, Intent and Purpose. The foregoing recitals are ratified as true and correct and are incorporated herein. It is the purpose and intent of this Ordinance to promote the life, health, safety and general welfare of the residents, businesses and stakeholders of the City.

SECTION 2. Definition. For the purposes of this Ordinance, Special Preservation Future Land Use shall be defined by the City's Comprehensive Plan, more specifically as provided within the Future Land Use Element and associated Future Land Use Map. The Wetlands Preservation Area shall be defined by Chapter 23, Article III, of the City's Code of Ordinances.

SECTION 3. Boundaries. This Ordinance applies to all lands within the City having a Special Preservation Future Land Use Designation, in whole or in part, including submerged lands

and uplands, including lands located west of North Ocean Drive and north of Pine Point Road. This Ordinance also applies to all lands defined as wetlands or wetlands preservation area within Chapter 23, Article III, of the City's Code of Ordinances. The City's Future Land Use Map and the City's Wetlands Preservation Area Map have been attached hereto and made a part of this Ordinance as Exhibit 'A' and Exhibit 'B'.

SECTION 4. Moratorium and Direction to Staff. The City Council hereby tolls the previously enacted moratorium, adopted by Ordinance No. 4133, and previously extended by Ordinance No. 4141 for the period remaining on the Moratorium from April 1, 2020, when Governor DeSantis issued Executive Order 20-91 directing all citizens of the State of Florida to limit their movements outside of the home except for provision of non-essential services due to the declaration of a State of Emergency relating to the public health emergency of COVID-19 for the duration of Executive Order 20-19, through and including April 30, 2020, and further including the additional duration of any extensions of Executive Order 20-91 by Governor DeSantis through enactment of any subsequent Executive Order, thereby, prohibiting the filing receiving or processing of any application or permit associated with real property having a Special Preservation Future Land Use designation, solely or in part, or associated with a Wetlands Preservation Area, in order for City staff to review amend and develop codes and land development regulations, in order to better protect and conserve the City's natural resources.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Repeal of laws in conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon final approval and adoption.

PASSED AND APPROVED on the first reading this _____ day of _____, _____.

PASSED AND ADOPTED on second and final reading this _____ day of _____, _____.

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APPROVED:

ORDINANCE NO. _____
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RONNIE L. FELDER
MAYOR

KASHAMBA MILLER-ANDERSON
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY,
CERTIFIED MUNICIPAL CLERK
CITY CLERK

JULIA A. BOTEL, Ed.D
CHAIR PRO TEM

TRADRICK MCCOY
COUNCILPERSON

SHIRLEY D. LANIER
COUNCILPERSON

DOUGLAS A. LAWSON
COUNCILPERSON

REVIEWED AS TO LEGAL SUFFICIENCY

DAWN S. WYNN, CITY ATTORNEY

DATE: _____

1ST READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LANIER _____

J. BOTEL _____

D. LAWSON _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LANIER _____

J. BOTEL _____

D. LAWSON _____

REVIEWED AS TO LEGAL SUFFICIENCY

DAWN S. WYNN, CITY ATTORNEY

DATE: _____