ORDINANCE NUMBER 4147

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 OF THE CITY'S CODE OF ORDINANCES ENTITLED, "ZONING", ARTICLE V, "DISTRICT REGULATIONS", BY CREATING A NEW ZONING DISTRICT ENTITLED, "SP SPECIAL PRESERVATION DISTRICT", COINCIDING WITH THE CITY'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT FOR SPECIAL PRESERVATION AREAS; AND AMENDING CHAPTER 31, ARTICLE V, DIVISION 1, "GENERALLY", SECTION 31-96, "DESIGNATION OF DISTRICTS", BY ADDING REFERENCE TO THE "SP SPECIAL PRESERVATION DISTRICT"; AND AMENDING CHAPTER 31, ARTICLE V, DIVISION 1, "GENERALLY", SECTION 31-97, "OFFICIAL ZONING MAP AND ZONING DISTRICT BOUNDARIES", BY AMENDING THE CITY'S ZONING MAP BY ASSIGNING A SPECIAL PRESERVATION ZONING DISTRICT DESIGNATION TO ANY AND ALL LAND AREA CURRENTLY HAVING A SPECIAL PRESERVATION FUTURE LAND USE DESIGNATION ACCORDING TO THE CITY'S COMPREHENSIVE PLAN AND FUTURE LAND USE MAP, IN ORDER TO PROVIDE CONSISTENCY BETWEEN THE CITY'S FUTURE LAND USE MAP AND ZONING MAP, WHICH WILL IMPACT REAL PROPERTY OR PORTIONS THEREOF, LOCATED NORTH OF PINE POINT ROAD AND WEST OF NORTH OCEAN DRIVE IN THE CITY OF RIVIERA BEACH; PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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, shores; Fisheries; Native plant and animal communities and ecosystems; Noise level [sic]; Wetlands; Soils; Water; Wildlife and wildlife habitats; and Bottomlands; and

WHEREAS, Ordinance No. 4133 was adopted on June 5, 2019, which enacted 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; and

WHEREAS, Ordinance No. 4141 was adopted on November 25, 2019, which extended the aforementioned moratorium for an additional time period not to exceed 180 days; and

WHEREAS, Ordinance No. 4146 was adopted on May 6, 2020, which extended the aforementioned moratorium for a tolling time period due to the COVID-19 pandemic and associated executive orders; and

WHEREAS, City staff findings from this moratorium period demonstrated that the City must create a new Special Preservation Zoning District in order to provide Land Development Regulations consistent with the Special Preservation Future Land Use category, as identified within the City's Comprehensive Plan. Per the Florida Statutes, (Sec. 163.3202(1), "Land Development Regulations") the City's Zoning Map must be compatible with the Future Land Use Map; and

WHEREAS, the Planning and Zoning Board reviewed the Special Preservation Zoning District regulations on May 28, 2020 and unanimously recommended approval to the City Council; and

WHEREAS, on August 21, 2020, the City Council held a Workshop to discuss the Special Preservation Ordinance (Number 4147), and at said Workshop, reviewed the Natural Resources Assessment, dated August 15, 2020, and associated Exhibits 1 through 8, attached hereto and made a part of this Ordinance collectively as Exhibit B, which were provided to the City Council and general public, identifying extensive seagrass beds, mangroves, and wetlands which provide significant habitat for state and federally protected species, including, but not limited to manatee, smalltooth sawfish, and green sea turtle; and

WHEREAS, the City Council supports the creation of the Special Preservation Zoning District and finds that it is consistent with the goals, objectives, and policies of the City's Comprehensive Plan, more specifically, those found within the Conservation Element and Future Land Use Element; and

WHEREAS, the City Council of the City of Riviera Beach finds that the enactment of this ordinance promotes the health, safety and welfare of the general public.

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

SECTION 1. The foregoing recitals are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

SECTION 2. Chapter 31, "Zoning", Article V, "District Regulations", of the City's Code of Ordinances is hereby amended to read as follows (additions are underlined and deletions appear in strikethrough format):

* * *

DIVISION ##. – SP SPECIAL PRESERVATION DISTRICT.

Sec. 31-###. – Purpose and intent.

The purpose and intent of the special preservation district is to provide for land development regulations that address the use of special estuarine bottomlands, wetlands, and mangrove habitat while promoting the City's preservation policies contained within the City's Comprehensive Plan, including but not limited to the Conservation Element and Future Land Use Element. This district aims to protect and conserve the City's natural resources including, but not limited to, air, beaches, shores, fisheries, native plant and animal communities and ecosystems, wetlands, soils, water, wildlife and wildlife habitats, bottomlands, environmentally-sensitive lands and unique estuarine mangrove habitat found in and around the Lake Worth Lagoon.

Sec. 31-###. – Use regulations.

a) *Uses permitted*. The following uses are permitted in the SP special preservation district:
    1) Private residential fishing or viewing platforms and docks for non-motorized boats may be permitted subject to the following regulations:
        a. Platforms and docks shall not extend outward past the mean low water line.
        b. Construction must be fully achievable from an on-shore location.
        c. Permits must be obtained from DEP and/or all other applicable regulatory agencies.
    2) Mitigation land banks.
    3) Preservation land.

b) *Special Exception*. The following uses may be permitted in the SP special preservation district:
    1) None.

c) *Uses prohibited*. The following uses shall be prohibited in the SP special preservation district:
    1) Any use not specifically stated as a use permitted within this section.

Sec. 31-###. - Judicially determined vested rights.

a) The Special Preservation District shall not be construed nor implemented to impair or preclude judicially determined vested rights to develop or alter submerged lands.

* * *

SECTION 3. Chapter 31, "Zoning", Article V, "District Regulations", Division 1, "Generally", Section 31-96, "Designation of districts", of the City's Code of Ordinances is hereby amended to read as follows (additions are underlined and deletions appear in strikethrough format):

* * *

SP Special Preservation

* * *

SECTION 4. The City's Zoning Map is hereby amended according to Exhibit A, attached hereto and an essential part of this Ordinance, in order to provide consistency between the City's Zoning Map and the Special Preservation Future Land Use Area as currently identified on the City's Future Land Use Map; the existing RS-5 Single Family Residential Zoning District shall be amended to the SP Special Preservation Zoning District.

SECTION 5. The City Council finds that it is in the best interest of the health, safety and welfare of the public to enact this ordinance.

SECTION 6. If any section, subsection, sentence, word, 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 7. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. Specific authority is hereby granted to codify the Ordinance as it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 9. Upon adoption, this Ordinance (No. 4147) shall sunset the current Special Preservation and Submerged Lands Moratorium initially adopted by Ordinance No. 4133, and extended by Ordinance No. 4141, and Ordinance No. 4146.

SECTION 10. This Ordinance shall take effect immediately upon final passage and adoption.

SECTION 11. The August 15, 2020, Natural Resources Assessment and associated Exhibits 1 through 8, are attached hereto and made a part of this Ordinance collectively as Exhibit B.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

PASSED AND APPROVED on the first reading this_____day of_____, _____.

PASSED AND ADOPTED on second and final reading this_____day of_____, _____.

APPROVED:

RONNIE L. FELDER **MAYOR**	**JULIA A. BOTEL, Ed.D** **CHAIRPERSON**
ATTEST:	
CLAUDENE L. ANTHONY, **CERTIFIED MUNICIPAL CLERK** **CITY CLERK**	**DOUGLAS A. LAWSON** **CHAIR PRO TEM**
	TRADRICK MCCOY **COUNCILPERSON**
	SHIRLEY D. LANIER **COUNCILPERSON**
	KASHAMBA MILLER-ANDERSON **COUNCILPERSON**

REVIEWED AS TO LEGAL SUFFICIENCY

_____

DAWN S. WYNN, CITY ATTORNEY

DATE: _____

1ST READING		**2ND & FINAL READING**	
MOTIONED BY:	_____	**MOTIONED BY:**	_____
SECONDED BY:	_____	**SECONDED BY:**	_____
T. MCCOY	_____	**T. MCCOY**	_____
K. MILLER-ANDERSON	_____	**K. MILLER-ANDERSON**	_____
S. LANIER	_____	**S. LANIER**	_____
J. BOTEL	_____	**J. BOTEL**	_____
D. LAWSON	_____	**D. LAWSON**	_____

REVIEWED AS TO LEGAL SUFFICIENCY

DAWN S. WYNN, CITY ATTORNEY

DATE: _____