



"The Best Waterfront City in Which to Live, Work And Play."

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**CITY OF RIVIERA BEACH**

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**TO:** HON. MAYOR, CHAIRPERSON, AND CITY COUNCIL

**THROUGH:** JONATHAN EVANS, CITY MANAGER, MPA, MBA, ICMA-CM

**FROM:** CLARENCE SIRMONS, DIRECTOR, DEVELOPMENT SERVICES

**SUBJECT:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ENACTING A MORATORIUM FOR UP TO 180 DAYS AS TO THE FILING, RECEIVING OR PROCESSING OF ANY APPLICATION OR PERMIT ASSOCIATED WITH FLOATING STRUCTURES OR LIVE-ABOARD VESSELS WITHIN THE CORPORATE LIMITS OF THE CITY OF RIVIERA BEACH; DIRECTING CITY STAFF TO REVIEW, AMEND AND DEVELOP UPDATED LAND DEVELOPMENT REGULATIONS AND OTHER RECOMMENDATIONS REGARDING REGULATION OF FLOATING STRUCTURES; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**DATE:** FEBRUARY 3, 2021

**CC:** GENERAL PUBLIC

**Background:**

On January 20<sup>th</sup>, this item passed its first reading by council. This item originated when City Council directed City staff to review the current City Code provisions regulating floating structures and live aboard vessels. After numerous meetings with City staff, Palm Beach County staff, and local organizations committed to the best interests of the waters in and around the City of Riviera Beach, staff has crafted this ordinance.

The City is granted the authority under Section 2(b), Art. VIII of the State Constitution, and Section 166.021, Florida Statutes, to exercise any power for municipal purposes, except when expressly prohibited by law.

The City recognizes that there has been an accelerated growth of floating home communities and floating commercial structures throughout the State of Florida and the country.

Section 327.02(14), Florida Statutes, defines “Floating structure” as “a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such....”

Section 327.02(14), Florida Statutes, further states that floating structures are expressly excluded from the definition of the term “vessel” provided for 327.02(14), Florida Statutes.

Section 327.02(22), Florida Statutes, defines “Live-aboard vessel” as (a) a vessel used solely as a residence and not for navigation; (b) a vessel for which a declaration of domicile has been filed pursuant to section 222.17, Florida Statutes; or (c) a vessel used as a residence that does not have an effective means of propulsion for safe navigation; and

The Supreme Court of the United States in *Lozman v. City of Riviera Beach*, 568 U.S. 115 (U.S. 2013), held that a structure situated upon water does not constitute a “vessel” within the meaning of Section 327.02(46), Florida Statutes “unless a reasonable observer, looking to [its] physical characteristics and activities, would consider it designed to a practical degree for carrying people or things over water.”

The City’s Land Development Code currently incorporates the definitions of Section 127.02, Florida Statutes.

Specifically, the City’s Land Development Code, Chapter 13, Article III, Section 13-54 currently prohibits any person from establishing any floating mooring device or anchoring or mooring any vessel or floating structure in the waters of the City other than mooring at a dock or similar facility for more than 72 continuous or cumulative hours, during a 30-day period. Section 13-54 does not apply to any vessel or floating structure owned and operated by the state or the United States government, or any vessel or floating structure operating within the Florida Intracoastal Waterway.

With respect to live aboard regulations, the City’s Land Development Code, Chapter 13, Article III, Section 13-79 expressly prohibits *permanent* live-aboard vessels.

Despite having these regulations, the City’s Land Development Code does not adequately address remedies, enforcement, and other regulations for “vessels” and other floating structures or live-aboard vessels in violation of the City’s Code, and needs to be updated.

Palm Beach County and other coastal communities located in the County have recognized this issue and have updated, or have begun the process to update, their land development codes to provide clear regulations of vessels, floating structures, and live aboard vessels.

The stationing or mooring of floating structures or live-aboard vessels have the potential to impact navigation, public health and safety, the environment, and public recreation in various locations throughout the City's jurisdiction.

City staff believes that this temporary moratorium, intended to give the City the time reasonably necessary to determine the best way to better regulate floating structures and live-aboard vessels for the benefit of public health, safety, and welfare and to promulgate reasonable regulations relating to such uses as deemed advisable by the City, advances an important government purpose by reducing the likelihood of the negative, minimally regulated effects of floating structures and live-aboard vessels.

City staff asks that the City Council approve this Ordinance imposing a temporary moratorium until adequate regulations have been developed, considered, revised, updated and/or adopted. Further, City staff finds it is in the best interests of the health, safety, aesthetics, economic order, and general welfare of the community and the residents of the City, and is necessary to advance the City's valid police powers.

**City Goals:**

The City wide goal is to Build Great Neighborhoods

**Fiscal/Budget Impact:**

N/A

The Department of Development Services has abided by all procurement and fiscal policies that would apply to this matter.

**Recommendation:**

City staff recommends the approval of a moratorium on floating structures and live aboards.

**Attachments:**

1. Ordinancen No. 4160