ORDINANCE NUMBER 4178

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 13 OF THE CITY'S CODE OF ORDINANCES ENTITLED, "PARKS AND RECREATION", REPEALING ARTICLE III, "BOATS"; CREATING ARTICLE III, "BOATS, FLOATING STRUCTURES, LIVE-ABOARD VESSELS AND OTHER WATERCRAFT"; PROVIDING FOR APPLICABILITY, SEVERABILITY, REPEAL OF LAWS IN CONFLICT, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach City Council (hereinafter the "City Council") is the legislative body of the City of Riviera Beach, Florida; and

WHEREAS, Section 327.02(46), Florida Statutes, defines "Vessel" as "synonymous with boat as referenced in Section 1(b), Article VII of the State Constitution and includes every description of watercraft, barge, airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on the water."; and

WHEREAS, 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

WHEREAS, 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 and 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."; and

WHEREAS, Section 327.02(14), Florida Statutes, provides that "floating structures" are expressly excluded from the definition of the term "vessel" as defined in Section 327.02(46), Florida Statutes; and

WHEREAS, Section 327.02(14), Florida Statutes, provides that "Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from being classified as a floating structure."; and

WHEREAS, the City Council recognizes that the Supreme Court of the United States (hereinafter the "Court"), pursuant to *Lozman v. City of Riviera Beach*, 568 U.S. 115 (U.S. 2013), holds that an article (hereinafter "entity") situated upon the water does not constitute a "vessel" within the meaning of 1 U.S.C.A. § 3 if "a[n objective] reasonable observer, looking to "its "physical

characteristics and activities, would not consider it to be designed to any practical degree for carrying people or things on water."; and

WHEREAS, the Court, by adopting the foregoing objective purposive test in that *Lozman* decision, eliminated consideration of the owner's subjective intent in vessel status determinations; and

WHEREAS, the City Council finds and recognizes that the Court, in that certain *Lozman* decision, held that the Petitioner's floating home did not constitute a "vessel" within the meaning of said Act in view of that: (1) it was incapable of self-propulsion, (2) it has no rudder or other steering mechanism, (3) it has an un-raked hull, (4) it had a rectangular bottom, (5) it had a draft of only 10 inches below water, (6) its infrequency of past movement (based upon the fact that, prior to its *in rem* arrest, it had traveled by tow over water only on four occasions over a 7-year period), (7) it could not be moved without dangerously swinging side-to-side (based upon the fact that when it has been towed, it had required a second boat to follow it from behind to prevent it from swinging dangerously side-to-side), (8) it had no special capacity to generate or store electricity, (9) its similarity to land-based residences (based upon the fact that its room looked like ordinary non-maritime living quarters), (10) it had ordinary windows and unsealed French doors rather than watertight portholes, and (11) it had no other feature that might suggest a design to transport over water anything other than its own furnishings and related personal effects; and

WHEREAS, the City Council has identified that it has become an increasingly common practice to moor, anchor, or otherwise affix floating structures over or otherwise upon waters included within the territorial jurisdiction of the State of Florida and the Waters of the City, including: (1) anchoring, mooring, or otherwise affixing floating structures to unpermitted, unauthorized, or otherwise unlawful objects lying at or near the bottom of said waters including but not limited to upon sovereign submerged lands, (2) anchoring, mooring, tying off, or otherwise affixing floating structures to publicly owned uplands and over or otherwise upon such waters and/or sovereign submerged lands, and (3) anchoring, mooring, tying off, or otherwise affixing floating structures to plant species protected by federal, state, and/or local law(s), rule(s), or regulation(s) pursuant to an endangered, threatened, or species of special concern designation or listing and/or plant species (including, but not limited to, mangroves) whose defoliation or destruction is subject to special permitting requirements pursuant to the Florida Mangrove Trimming and Preservation Act; and

WHEREAS, the Waters within the City of Riviera Beach include the Lake Worth Lagoon, and all other navigable waters, all of which are environmentally sensitive aquatic habitat; and

WHEREAS, the City Council finds that the floating structures in the City commonly: (1) contain greywater and/or blackwater discharge facilities such as washrooms, showers, toilets, latrines, and/or outhouses, (2) do not contain a bilge pump(s), (3) do not contain a marine sanitation device(s), (4) hold unsecured or poorly contained stored fuel(s) and other potentially dangerous and/or hazardous products and materials such as propane tanks and furniture, (5) contain living quarters and/or recreational areas, (6) are utilized for the purpose of storage and/or habitation, (7) do not have navigational lights, (8) do not feature identifying information which a local, state, or federal government or enforcement agency may utilize to ascertain their owner(s) in a reasonably timely manner, (9) are rafted up to larger "primary" vessels or to larger "primary" floating structures, (10) do not securely hold on anchor, (11) are not built to any manufacturing standard(s) and/or building code(s), (12) are unauthorized or unlawfully anchored or moored upon sovereign submerged lands, (13) are abandoned, and (14) lack means of propulsion necessary to quickly relocate in advance of or during extreme weather events or other emergency events; and

WHEREAS, floating structures within the territorial jurisdiction of the State of Florida and the Waters of the City may pose significant threat to the environment, human health, and navigational safety through the potential to discharge sewage, oil, or hazardous substances into the marine environment; physical damage to surrounding ecosystems; the proliferation of marine debris; and the inability to quickly locate an owner during times of emergency, to have the floating structure removed; and

WHEREAS, neither the United States nor the State of Florida have preempted the several states or local governments from legislating in the field of floating structure regulation; and

WHEREAS, Section 327.60(3), Florida Statutes, provides, in pertinent part, that local governmental authorities are not prohibited from enacting or enforcing regulations that prohibit or restrict the mooring or anchoring of floating structures[.]"; and

WHEREAS, Section 192.001(17), Florida Statutes, provides, in pertinent part, that, "[a] floating structure is expressly included as a type of tangible personal property."; and

WHEREAS, under Florida law, there is no recognized common law, constitutional, or statutory littoral or riparian right to anchor, moor, or otherwise indefinitely or permanently affix or situate a floating structure upon or over waters included within the territorial jurisdiction of the State of Florida, or upon or over Waters of the City, including but not limited to upon sovereign submerged lands; and

WHEREAS, on June 24, 2021**,** Palm Beach County adopted Ordinance No. 2021-017, amending its Code of Ordinances to prohibit floating structures; and

WHEREAS, Palm Beach County's Ordinance applies within the incorporated and unincorporated areas of the County unless a municipality opts out or adopts an ordinance in conflict, in which case the County's Ordinance is effective to the extent not in conflict with the municipal ordinance; and

WHEREAS, the City Council finds that this Ordinance is necessary to advance the City's public health, safety, and welfare to protect the natural environment within the City.

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

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 health, safety and general welfare of the residents, businesses, and stakeholders of the City.

SECTION 2. REPEAL OF ARTICLE III, "BOATS". In order to create a new Article addressing Floating Structures, Live-Aboard Vessels, and other Watercraft within the City's Code of Ordinances, the City Council hereby repeals Article III, entitled "Boats" Section 13-51 through Section 13-62 contained within Chapter 13 of the Code of Ordinances of the City of Riviera Beach, entitled "Parks and Recreation", as shown below.

* * *

~~**ARTICLE III. BOATS**~~
~~**Sec. 13-51. Definitions.**~~

~~Definitions as stated in F.S. § 327.02 are incorporated herein by reference. For the purposes of this article, "waters within the corporate or city limits of the city" shall mean any part of Lake Worth within the boundaries of the city as may exist now or hereafter.~~

~~**Sec. 13-52. Compliance.**~~

~~For the protection of property owners, the general public and owners and operators of any vessel or floating structure in the city, all floating structures of any type whatsoever operated, moored, docked or anchored at any place in the canals, rivers, bays or waters within the corporate limits of city and the owners, operators or occupants thereof shall be governed by and observe the provisions of this article.~~

~~**Sec. 13-53. Trespassing vessels and other floating structures.**~~

~~(a) Any vessel or floating structure that is found to be trespassing as defined in subsection (b) of this section may be immediately removed and impounded by the city at the expense of the owner.~~

~~(b)Trespass occurs when:~~

~~(1)Any vessel or other floating structure is placed or parked in any tow-away zone that is posted with a tow-away zone sign. All grassed area at the marina are tow-away zones.~~

~~(2)Any vessel or other floating structure placed, parked, moored or otherwise attached to any city property other than a posted tow-away zone, and the owner or operator fails to remove same after warning.~~

~~Sec. 13-54.- Anchoring and Mooring of Vessels.~~

~~(a) No person shall establish any floating mooring device or anchor or moor 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. Any vessel that anchors or moors in excess of 72 hours is not to be considered as exercising a right of navigation.~~

~~(b) Public anchorages may be designated by the city manager or his authorized representative, in which areas floating mooring devices may be established by the city or by private parties at the option of the city. Establishment or use of such a device shall require a permit from the city, for which reasonable charges may be assessed. No such device shall be established or used prior to the issuance of such permit.~~

~~(c) This section shall not apply to the following:~~

~~(1) Any vessel or floating structure owned and operated by the state or the United States government.~~

~~(2) Any vessel or floating structure operating within the Florida Intracoastal Waterway.~~

~~(3)Any vessel or other floating structure is found to be obstructing the egress and/or ingress of vessels at the city's marina.~~

~~Sec. 13-55.-Menace to navigation prohibited.~~

~~(a) It shall be unlawful for any person to maintain, anchor or moor any vessel or floating structure in such a manner as to cause or be considered a menace or obstruction to navigation.~~

~~(b) Abandoned boats shall be disposed of pursuant to F.S. ch. 705.~~

~~Sec. 13-56. Sunken Boats.~~

(a) *Public hazard and/or public nuisance; removal requirement.* Sunken boats in any waters within the city are declared to be a public nuisance. If a boat sinks in a harbor, marina, channel or in any of the waters within the city limits, it shall be the duty of the owner thereof to immediately remove the same at their expense, and on their failure to do so the city manager or designee shall remove such at the expense of the owner. If for whatever reason the owner or owners are not known, notice shall be given by publication in a newspaper of general circulation in the county.

(b) *Collection of costs of removal.* If it becomes necessary for the director to remove a sunken boat, the city may, at its option, attach a lien to the salvage or enter suit against the owner to recover such costs, or both.

Sec. 13-57. Health and sanitation rules of the city; disorderly conduct, etc.

All persons on board a watercraft moored to land, docks, piers, wharves or anchored in the waterways of the city shall observe all health and sanitary regulations of the city and all ordinances of the city relating to the conduct of persons, including those prohibiting acts contrary to the health, morals, safety or public peace, and including ordinances prohibiting disorderly conduct or loud and boisterous noises which disturb the peace.

Sec. 13-58. Excessive Operating Noise.

No operator shall cause or allow excessive noise in the operation of watercraft or in operating blowers, machinery, or motors of or on board a watercraft in violation of any noise control ordinance of the city.

Sec. 13-59. Refuse Disposal.

(a) It shall be unlawful for any person to dump or throw, or cause to be dumped or thrown, waste material, refuse, petroleum products or other debris into any waterways of the city.

(b) All watercraft moored or docked in the waterways within the city limits other than at the municipal docks shall provide garbage cans of sufficient capacity (not larger than 32 gallons, with tightfitting tops) to hold garbage or refuse to be collected by the city or its contractors. The city or its contractors shall have the authority to assess reasonable fees for the collection of such garbage or refuse.

(c) The city shall furnish and provide sufficient garbage containers near the municipal docks to service all watercraft moored at such docks, and the city shall make collections as established by ordinance.

(d) No one shall throw, drop or leave fish, garbage, trash, refuse, bait or other debris on docks, walls, parkways, parks or other premises within the city except in proper receptacles provided for same.

~~**Sec. 13-60. Equipment for Excrement, Waste, Refuse.**~~

~~No person shall use or maintain living quarters on any motor boat, yacht, houseboat, floating home or any other type of watercraft on any of the waters within the city limits unless the same shall be equipped with a holding tank and/or chlorinator-macerator or other equipment sufficient for the purpose of containing all excrement, waste and refuse from such craft, and the same shall be disposed of in accordance with the rules and regulations heretofore or hereafter established by resolution of the city council for the disposal of same, but in no event shall any part thereof be released into any of the waters within in the city.~~

~~**Sec. 13-61. Enforcement.**~~

~~(a) The city manager or designee is hereby authorized to enforce the provisions of this article.~~

~~(b) If any watercraft is impounded as the result of a violation of any provisions of this article and the watercraft is unclaimed, the city shall dispose of the property in accordance with F.S. §§ 705.102, 705.103, 705.104, 328.15 and 328.17.~~

~~**Sec. 13-62. - Penalty for violations.**~~

~~Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided by~~ section 1-11 ~~of this Code.~~

SECTION 4. CREATION OF ARTICLE III . "BOATS, FLOATING STRUCTURES, LIVE-ABOARD VESSELS AND OTHER WATERCRAFT". In order to create a new section addressing Floating Structures and Live-Aboard Vessels within the City's Code of Ordinances, the City Council hereby creates a new Article III. entitled "Boats, Floating Structures, Live-Aboard Vessels and Other Watercraft" under Chapter 13 of the Code of Ordinances of the City of Riviera Beach, entitled "Parks and Recreation", which shall read as follows:

* * *

Sec. 13-51 Definitions

"Anchor" shall mean the use of traditional ground tackle, typically including an anchor, anchor chain, and line appurtenant to a floating structure, live-aboard vessel, and/or boat and used to hold a floating structure, live-aboard vessel and/or boat in place.

"Barge" shall mean that term as it is defined at Section 327.02, Florida Statutes, as may be amended.

"Derelict vessel" shall mean that term as it is defined at Section 823.11, Florida Statutes, as may be amended.

"Expressly Permit" means express authorization of both, all material components comprising the floating structure itself, and of the placement or situation of that floating structure in its specific configuration, length, size, and location, by all federal, state, and local government agencies pursuant to issuance of a written order granting, or granting with conditions, a written application to so construct and place or situate that floating structure.

"Floating Structure" means 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, a 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. Floating structures are expressly excluded from the definition of the term "vessel" as defined in Section 327.02, Florida Statutes, as may be amended. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure. Registration of the entity as a "vessel" in accordance with Chapter 327, Florida Statutes, shall not preclude an entity from classification as a floating structure. In the event of a dispute as to whether an entity constitutes a floating structure versus a vessel, such dispute shall be determined under a preponderance of the evidence standard, by analyzing the following criteria which are attributes of a floating structure: (1) it is incapable of self-propulsion, (2) it does not have a rudder or other steering mechanism, (3) it does not have a raked hull, (4) it has a rectangular or a square bottom, (5) its draft is not comparable to the drafts of vessels of similar size, (6) its documented past geographical movement is infrequent, (7) it cannot be moved over meaningful distances without dangerously or hazardously swinging from side-to-side, (8) it does not have a (lawful) capacity to generate or store electricity, (9) it does not have a bilge pump(s), (10) it does not have an approved marine sanitation device(s), (11) its above water surface area(s) bear similarity to the interior or exterior of a land-based residential or commercial structure, (12) it has ordinary windows, open doorways, or unsealed doors, (13) it does not have any other physical features that might suggest to an objective reasonable observer a design to transport over water anything other than its own furnishings and related personal effects, and (14) it is not titled and registered as a vessel. Payment of a tangible personal property tax regarding the entity in question or issuance or receipt of a tax exemption thereto, pursuant to Section 192.001(17), Florida Statutes, as may be amended, shall constitute prima facie evidence that the entity in question constitutes a floating structure under this Ordinance.

"Houseboat" means that term as it defined at Section 327.02, Florida Statutes, as may be amended.

"Jackup Rig" means a self-elevating unit that is a type of mobile platform that consists of a buoyant hull with a number of movable legs, capable of raising its hull over the surface of the sea.

"Lawfully Moored" means moored to a mooring ball, mooring buoy, or dock when

such mooring is authorized under federal, state, and/or local law(s) and has received all required federal, state, and local permits and approvals to so moor.

"Live-Aboard Vessel" means that term as it is defined at Section 327.02, Florida Statutes, as may be amended.

"Marina" means that term as it is defined at Section 327.02, Florida Statutes, as may be amended.

"Marine Facility" means an accessory building or structure which is used to take a boat into or out of a water body, to moor, to berth, or to store a vessel or floating structure, but shall not include any building used for human habitation or any boat service, repair, or sales facility.

"Moor" means the act of securing a floating structure in the water by means of a permanent or semi-permanent mooring system affixed to the bottom of the water body. As used in this Ordinance, to moor or a mooring shall include other meanings of mooring, such as tying off a floating structure to upland vegetation or to pilings, posts, or stakes, docks, piers, or other objects or structures serving as fixed anchors along the shoreline.

"Private Mooring" means the act of securing a floating structure in the water by means of a permanent or semi-permanent mooring system affixed to the bottom of the water body, exclusive of docks and piers, where the submerged bottom is owned by a private person or entity that is not the local, state, or federal government.

"Public Mooring Field" means an area within a public body of water where the public can legally secure their floating structure to a mooring buoy that is attached to the bottom of the water body with a permanent anchor.

"Vessel" means that term as it is defined at Section 327.02, Florida Statutes, as may be amended.

"Water Column and Water(s)" shall mean the vertical extent of water, including the surface thereof, above an area of submerged land, regardless of such land's public or private ownership.

"Waters of the City" means all waters and submerged lands, up to and including the mean high water mark, located within the geographic boundary limits of the City of Riviera Beach, which waters include waters within the jurisdiction of the state, including, but not limited to all navigable and non-navigable, and natural and artificially created waterways, canals, lagoons, bayous, bays, rivers, lakes, streams, springs, impoundments, and all other bodies of water, including fresh, brackish, saline, tidal surface, or underground, and including surface waters created by the removal of soil from uplands, but excluding any area preempted by law.

Sec. 13-52. Applicability

The provisions of this article shall apply to all boats, vessels, floating structures, live-aboard vessels, and watercraft operated, moored, docked or anchored at any place in the canals, rivers, bays, lagoons, or any other waters and submerged lands within the municipal boundaries of the city; and the owners, operators or occupants thereof shall be governed by and observe the provisions of this article.

Sec. 13-53. Prohibition of Floating Structures.

(a) It shall be unlawful for any person to anchor, moor, tie off, or otherwise affix a floating structure upon, or to, the Waters of the City.
(b) It shall be unlawful for any person to anchor, moor, tie off, or otherwise affix a floating structure to any publicly or privately-owned seawalls, bulkheads, docks, or uplands.
(c) It shall be unlawful for any person, within the Waters of the City, to anchor, moor, tie off, or otherwise affix a floating structure to one or more plant species protected by federal, state, or local law(s), rule(s), or regulation(s) pursuant to an endangered, threatened or species of special concern designation or listing.
(d) It shall be unlawful for any person, within the Waters of the City, to anchor, moor, tie off, or otherwise affix a floating structure to one or more plant species (including but not limited to, mangroves) whose defoliation or destruction is subject to special permitting requirements under the Florida Mangrove Trimming and Preservation Act, codified at Sections 403.9321-403.9333, Florida Statutes, as may be amended or supplemented.
(e) It shall be unlawful for any person to place or maintain or occupy a floating structure in violation of this Ordinance.
(f) It shall be unlawful for any person to proximately cause or proximately contribute to the placement or maintenance or occupancy of a floating structure in violation of this Ordinance.
(g) It shall be unlawful for any person to store items upon, occupy, or reside, temporarily or permanently, upon a floating structure within waters or submerged lands included within the Waters of the City.

Sec. 13-54. Live-Aboard Vessels.

(a) Any owner of a vessel may use or permit the vessel to be used for living quarters as a "live-aboard" vessel as defined in Florida Statutes § 327.02 as provided for in this section.
(b) All live-aboard vessels must contain a coast guard approved operable marine sanitation device. Discharge of sewage from all vessels must comply with section 13-59 of this chapter.

(c) Live-aboard vessels shall not be used for permanent living purposes and shall comply with section 13-79 and 13-80 of this chapter.
(d) Under no circumstance may a live-aboard vessel be moored in less than four (4) feet of water measured at mean low-tide. This prohibition applies to live-aboard vessels otherwise lawfully moored in a public or private mooring field, marine or docking facility as set forth in Section 13-55 of this chapter.
(e) The city marina may establish and provide reasonable rules and regulations for live-aboard vessels' anchoring or mooring and pump-out schedules to ensure the public health, safety, and welfare of persons and property within the city.

Sec. 13-55. Exceptions.

(a) This Ordinance shall not apply to floating structures and/or live-aboard vessels lawfully moored in a permitted public mooring field provided said floating structures and/or live aboard vessels are not moored in less than four (4) feet of water measured at mean low-tide.
(b) This Ordinance shall not apply to floating structures and/or live aboard vessels lawfully moored in a permitted private mooring field. It is the responsibility of the owner(s) or proprietor(s) of the private mooring facility to ensure that floating structures and/or live-aboard vessels moored thereto comply with all applicable local, state, and federal proprietary, safety, environmental, and pollution control laws, rules, and regulations, and it is further the responsibility of the owner(s) or proprietor(s) to ensure that no floating structures and/or live-aboard vessels are moored in less than four (4) feet of water measured at mean-low tide.
(c) The restrictions upon the use of live-aboard vessels as permanent living quarters under Sec. 13-54(c) shall not apply to live-aboard vessels lawfully moored in a permitted public or private mooring field, or at privately owned and operated marinas or marine facilities under this section.
(d) This Ordinance shall not apply to floating structures that are part of a permitted marine construction project.
(e) This Ordinance shall not apply to a floating structure that federal, state, and local proprietary laws and regulations expressly permit, when such floating structure has received all such required federal, state, and local permits and approvals (such as a floating boat lift or floating vessel platform permitted by the Florida Department of Environmental Protection pursuant to Chapter 403, Florida Statutes, and Chapter 62, Florida Administrative Code, as may be amended, and by all applicable federal permitting agencies), and is in compliance with all conditions of said permits and approvals.
(f) This Ordinance shall not apply to government waterway markers (such as, for example, regulatory markers and aids to navigation (the latter including, but not limited to, channel markers, danger markers, information markers, and aids of no lateral significance)).

(g) This Ordinance shall not apply to a waterway marker when that marker is both authorized under federal, state, and local law(s), and when its owner(s) and permittee(s) have received all required federal, state, and local permits and approvals to so place or maintain that waterway marker.

(h) This Ordinance shall not apply to vessel, including a live-aboard vessel located upon the Florida Intracoastal Waterway pursuant to 327.60(2)(c).

(i) This Ordinance shall not apply to a floating structure and/or live-aboard vessel moored or docked at a lawfully established marina or marine facility. It is the responsibility of the owner(s) or proprietor(s) of lawfully established marinas and marine facilities to ensure that floating structures and/or live-aboard vessels moored thereto comply with all applicable local, state, and federal proprietary, safety, environmental, and pollution control laws, rules, and regulations, and it is further the responsibility of the owner(s) or proprietor(s) to ensure that no floating structures and/or live-aboard vessels are moored in less than four (4) feet of water measured at mean-low tide.

Sec. 13-56. Derelict Vessels.

It shall be unlawful for any person, firm, or corporation to store, leave or abandon any derelict vessel in the City. The City is authorized to relocate, remove, or cause to be relocated or removed a derelict vessel from the Waters of the City pursuant to the derelict vessel policy and procedures adopted by the City of Riviera Beach Police Department through the exercise of the authority granted to the City pursuant to Florida Statutes, Section 823.11.

Sec. 13-57. Health and sanitation rules of the city; disorderly conduct, etc.

All persons on board a watercraft and/or floating structure and/or live-aboard vessel moored to land, docks, piers, wharves or anchored in the Waters of the city shall observe all health and sanitary regulations of the city and all ordinances of the city relating to the conduct of persons, including those prohibiting acts contrary to the health, morals, safety or public peace, and including ordinances prohibiting disorderly conduct or loud and boisterous noises which disturb the peace.

Sec. 13-58. Excessive operating noise.

No operator shall cause or allow excessive noise in the operation of a watercraft and/or floating structure and/or live-aboard vessel or in operating blowers, machinery, or motors, loudspeakers or radios of or on board a watercraft, floating structure and/or live-aboard in violation of any noise control ordinance of the city.

Sec. 13-59. Refuse disposal.

(a) It shall be unlawful for any person to dump or throw, or cause to be dumped or thrown, waste material, refuse, petroleum products or other debris into any Waters of the city.

(b) All marinas/boatyards that provide slip access for watercraft and/or boats and/or floating structures and/or live-aboard vessels moored or docked in the waterways within the city limits shall provide garbage cans of sufficient capacity with tight fitting tops to hold garbage or refuse to be collected by the city or its contractors. The city or its contractors shall have the authority to assess reasonable fees for the collection of such garbage or refuse and make collections as established by ordinance.

(c) No one shall throw, drop or leave fish, garbage, trash, refuse, bait or other debris on docks, walls, parkways, parks or other premises within the city except in proper receptacles provided for same.

Sec. 13-60. Equipment for excrement, waste, refuse.

No person shall use or maintain living quarters on any motor boat, yacht, houseboat, floating structure and/or live-aboard vessel or any other type of watercraft on any of the waters within the city limits unless the same shall be equipped with a holding tank and/or chlorinator-macerator or other United States Coast Guard approved equipment sufficient for the purpose of containing all excrement, waste and refuse from such craft, and the same shall be disposed of in accordance with the rules and regulations heretofore or hereafter established by resolution of the city council for the disposal of same, but in no event shall any part thereof be released into any of the waters within the city without having been lawfully treated by U.S. Coast Guard approved equipment and/or other equipment as may be amended by law.

Sec. 13-61. Enforcement.

(a) Any law enforcement or code enforcement officer acting within his/her jurisdiction is authorized to enforce this Ordinance.
(b) The violation of any provision of this Ordinance may be enforced pursuant to Section 125.69(1), Florida Statutes, as may be amended, and shall be punishable by a fine not to exceed five hundred dollars ($500.00) per day, by imprisonment in the county jail not to exceed sixty (60) days, or by both such fines and imprisonment.
(c) The violation of any provision of this Ordinance may be enforced pursuant to the procedures and penalties of Section 162.01, Florida Statutes, et seq. and section 1-11 of this Code, as may be amended.
(d) In addition to the sanctions contained herein, this Ordinance may be enforced through any other appropriate legal action, including, but not limited to, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunction to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide additional and cumulative remedies.

(e) Each day a violation of this Ordinance occurs shall constitute a separate offense and be punishable as such.

(f) Authorized enforcement officers may remove or destroy a floating structure found in violation of this Ordinance, in accordance with the following:

1. When a floating structure is found to be in violation of this Ordinance, notice shall be placed upon such floating structure notifying such owner(s), whether known or unknown, that the floating structure is in violation of this Ordinance. Owner(s) shall be given 21 calendar days from the date of the posting of the notice to remove the floating structure, except when there is an impending tropical storm, in which case an owner(s) shall be given 24 hours from the date and time of the posting of the notice to remove the floating structure. Such notice shall be substantially in the following form:

   "NOTICE OF ILLEGALLY ANCHORED OR MOORED FLOATING STRUCTURE City of Riviera Beach Ordinance X prohibits the anchoring, mooring, tying off, or otherwise affixing of floating structures except when lawfully moored in a permitted public mooring field or permitted private mooring, or as otherwise permitted under this Ordinance. This floating structure is currently in violation of Ordinance X and is subject to enforcement under the Ordinance. You are hereby notified that you must remove the above-described floating structure no later than _____, failing in which it will be removed or destroyed and you will be responsible for expenses including but not limited to all costs of removal, storage, disposal, and fines, as applicable."

2. The "NOTICE OF ILLEGALLY ANCHORED OR MOORED FLOATING STRUCTURE" as provided in subsection (f)(1) shall also be mailed by First-Class mail to the owner of the floating structure, if known. Evidence that an attempt has been made to mail such notice, if the owner is known, together with proof of posting, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.
3. If the owner of the floating structure or his/her agent cannot be found, or elects not to pay in accordance with the provisions outlined in this section, then the floating structure shall be considered to be abandoned property and the city shall follow the appropriate steps to dispose of the property in accordance with state statutes.

(g) All owners, part owners, joint owners, tenants-in-common, tenants in partnership, joint tenants, tenants by the entirety, lessees, sub-lessees, assignees, sub-assignees, and holders of legal or beneficial title to or interest in a floating structure and/or live-aboard vessel that is in violation of this Ordinance, shall be jointly-and-severally liable with respect to any legal or equitable judgment or relief obtained in enforcing this Ordinance.

Sec. 13-62. Penalty for Violations.

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided by section 1-11 of this Code, and other penalties authorized by law.

* * *

SECTION 3. The City Council finds that this Ordinance is necessary to advance the City's public health, safety, and welfare to protect the natural environment within the City.

SECTION 4. **APPLICABILITY.** For purposes of jurisdictional applicability, this Ordinance shall apply to the City of Riviera Beach and all the waters and submerged lands located within the municipal boundaries of the City of Riviera Beach.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or provision of this Ordinance, or its application, to any person or circumstance 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. **CODIFICATION.** 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 sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 8. **EFFECTIVE DATE.** This Ordinance shall become effective immediately upon final passage and adoption by City Council.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PASSED AND APPROVED on the first reading this _____day of _____,2021.

PASSED AND ADOPTED on second and final reading this _____ day of _____, 2021.

APPROVED:

_____
RONNIE L. FELDER
MAYOR

_____
SHIRLEY D. LANIER
CHAIRPERSON

ATTEST:

_____
CLAUDENE L. ANTHONY,
CERTIFIED MUNICIPAL CLERK
CITY CLERK

_____
KASHAMBA MILLER-ANDERSON
CHAIR PRO TEM

_____
TRADRICK MCCOY
COUNCILPERSON

_____
JULIA A. BOTEL, Ed.D
COUNCILPERSON

_____
DOUGLAS A. LAWSON
COUNCILPERSON

REVIEWED AS TO LEGAL SUFFICIENCY

MOTIONED BY: _____

SECONDED BY: _____

_____
DAWN S. WYNN, CITY ATTORNEY

T. MCCOY: ____

DATE: _____

K. MILLER-ANDERSON: ____

S. LANIER: ____

J. BOTEL: ____

D. LAWSON: ____

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**	**_____**