

Chapter 388 BOATS AND WATERWAYS

Existing:

Proposed:

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Chapter 388 BOATS AND WATERWAYS

PART 1. WATERCRAFT REGULATIONS

Sec. 388.101. Findings and legislative intent.

- (a) Pursuant to § 327.60(3), F.S. (2019), the Florida Legislature has expressly authorized local governments to enact regulations that prohibit or restrict the mooring or anchoring of floating structures, live-aboard vessels, and commercial vessels, excluding commercial fishing vessels, within the local government's jurisdiction.
- (b) Pursuant to § 327.02(14), F.S., the Florida Legislature has defined "floating structures" and has expressly excluded "floating structures" from the definition of the term "vessel."
- (c) A "Floating Structure" is defined in Section 388.102, below.
- (d) Pursuant to Chapter 253 of the Florida Statutes, the Board of Trustees of the Internal Improvement Trust Fund is vested and charged with, among other things, the administration, management, control, supervision, conservation and protection of all lands owned by the State by right of its sovereignty, including sovereign submerged lands.
- (e) Enabled by Chapter 253, F.S., the Florida Department of Environmental Protection ("FDEP") has promulgated Rule 18-21.004, Florida Administrative Code (2019), which outlines the general proprietary powers of the FDEP and instructs that the activities on sovereignty lands be, with very few exceptions as outlined in the statute, limited to water dependent activities, and that residential structures be prohibited on sovereignty lands.
- (f) The Floating Structures that have been observed in Duval County pose a significant threat to the environment, human health, and navigational safety as an obstruction to navigation through deterioration, physical damage to the surrounding ecosystems, through the proliferation of marine debris, or the threat of discharge of sewage, oil and/or hazardous substances into the marine environment, including materials left on the Floating Structure if abandoned, and the potential use of the structure as an illegal dumping site for oil and other hazardous substances.
- (g) The potential damage that a Floating Structure could cause to persons or property is significant because they are not regulated as vessels and thus are not required to meet even basic structural capability or to provide basic safety equipment for either their inhabitants or other mariners, such as lighting equipment that would warn other mariners using the Waters of the County that an obstacle was present in the marine environment.
- (h) Additionally, Floating Structures are not required by the State to register with the Florida Department of Highway Safety and Motor Vehicles, so ownership and liability for the damage that they may cause becomes a hindrance to enforcement.
- (i) Floating Structures are hereby declared to be public nuisances, and may also be "abandoned property" pursuant to § 705.103, Florida Statutes.
- (j) It is the legislative intent of the City Council in enacting this Chapter to provide additional or supplemental means of obtaining compliance with the requirements stated herein. Nothing contained in this Chapter shall be deemed to prohibit the City from seeking enforcement by any other means provided by law, including, but not limited to, filing an action for declaratory and injunctive relief in a court of competent jurisdiction.

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- (k) If any penalty of this Chapter is deemed inconsistent with any Florida Statute, the provisions of the Florida Statute shall prevail.
- (l) **The Council in enacting this Chapter is acting as the governing body of Duval County, Florida.** The area of enforcement of the provisions of this Chapter shall be throughout and within the boundaries of Duval County, Florida. The municipalities of Atlantic Beach, Neptune Beach, and Jacksonville Beach within Duval County are also authorized to administer and enforce the provisions of this Chapter either individually, or in partnership with the City or each other, or both.

(Ord. 2020-589-E , § 5)

Sec. 388.102. Definitions.

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

Abandoned property means, pursuant to § 705.101(3), F.S., all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels as defined in § 823.11, F.S. The term is also defined in Section 670.101, Ordinance Code, to mean wrecked or derelict personal property, including wrecked, inoperative or partially dismantled motor vehicles; trailers; boats; machinery; refrigerators, washing machines, stoves, hot water heaters and other household appliances; plumbing fixtures; and furniture.

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

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

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

City means the City of Jacksonville, Florida.

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

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

County means Duval County, Florida.

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

- (1) In a wrecked, junked, or substantially dismantled condition upon any public waters of this State.
- (2) At a port in this State without the consent of the agency having jurisdiction thereof.
- (3) Docked, grounded, or beached upon the property of another without the consent of the owner of the property.

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

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

- (1) A functioning motor, controls, and steering system; or
- (2) Rigging and sails that are present and in good working order, and a functioning steering system. See also, § 327.02(13), F.S.

Floating Structure means, pursuant to § 327.02(14), F.S.,

- (1) A floating entity,
- (2) With or without accommodations built thereon,
- (3) 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 "Floating Structure" includes, but is not limited to, each entity used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge, dragline, or similar facility or entity represented as such. Floating Structures are expressly excluded from the definition of the term "vessel" provided in this Chapter. Incidental movement upon water or resting partially or entirely on the bottom shall not, in and of itself, preclude an entity from classification as a Floating Structure.

Houseboat means a vessel that is used primarily as a residence for at least 21 days during any 30-day period in a Florida county if such residential use of the vessel is to the preclusion of its use as a means of transportation. See also, § 327.02(17), F.S.

In the same area means a vessel that is within a radius of eight miles of any location where the vessel was previously moored or anchored within the last six months.

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

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

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

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

- (1) A vessel used solely as a residence and not for navigation;
- (2) A vessel for which a declaration of domicile has been filed pursuant to § 222.17, F.S. (Homestead and Exemptions: Manifesting and evidencing domicile in Florida); or
- (3) A vessel used as a residence that does not have an effective means of propulsion for safe navigation.

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

Marine sanitation device means equipment, other than a toilet, for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage. Marine sanitation device Types I, II, and III shall be defined as provided in 33 C.F.R. Part 159. See also § 327.02(26), F.S.

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

Mooring field means City-designated areas in and adjacent to City-installed mooring systems, which may include City and state-owned harbor or bayou bottoms but which exclude privately owned harbor bottoms.

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

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

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

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

Public property means lands and improvement owned by the Federal Government, the State, the County, or a municipality and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property. See also § 705.101(5), F.S.

Registration means a State operating license on a vessel which is issued with an identifying number, an annual certificate of registration, and a decal designating the year for which a registration fee is paid. See also § 327.02(41), F.S.

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

Waters of the County means all portions of those waters, up to and including the mean high water mark, located within the limits of the County, including, but not limited to, all navigable and non-navigable 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.

(Ord. 2020-589-E , § 5)

Sec. 388.103. Administration.

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

(Ord. 2020-589-E , § 5)

Sec. 388.104. Floating Structures prohibited.

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

(Ord. 2020-589-E , § 5)

Sec. 388.105. Exemption from enforcement of Floating Structures.

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

(Ord. 2020-589-E , § 5)

Sec. 388.106. Obstructing channels; unlawful anchoring, mooring or docking.

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

(Ord. 2020-589-E , § 5)

PART 2. ENFORCEMENT AUTHORITY

Sec. 388.201. Enforcement Officers.

- (a) The provisions of this Chapter shall be enforced by members of all duly authorized law enforcement agencies within the County and its municipalities, as well as the Jacksonville Environmental Quality Division and the Jacksonville Municipal Code Compliance Division.
- (b) The Director shall be responsible for the development of a tracking system to record complaints, inspections, notifications, removals, and a general record of the business done with regard to this Chapter.

(Ord. 2020-589-E , § 5)

Sec. 388.202. Inspections.

Enforcement Officers, upon belief that a violation of this Chapter exists, may make an inspection to determine if the possible Floating Structure is a Floating Structure, and not some other form of object, in the interest of safeguarding the health, safety and general welfare of the public.

(Ord. 2020-589-E , § 5)

Sec. 388.203. Right of entry.

- (a) Enforcement Officers are authorized to board a possible Floating Structure at any reasonable time for the purpose of performing their duties under this Chapter, so long as a law enforcement officer is utilized for boarding the possible Floating Structure if it is occupied. If any owner, occupant or other person in charge of the possible Floating Structure subject to the provisions of this Code refuses, impedes, inhibits, interferes with, or obstructs lawful entry or access to any part of the Floating Structure where an inspection authorized by this Chapter is sought, the Enforcement Officer may seek an inspection warrant pursuant to Florida law.
- (b) At the time of inspection, the Enforcement Officer shall properly identify himself/herself.
- (c) In cases of emergency where extreme hazards are known to exist which may involve the loss of life or severe property damage, the limitations of this Section shall not apply.
- (d) The Director, or other Enforcement Officer, shall have the right of entry upon Floating Structures while in the discharge of his duties in removing, terminating or abating a public nuisance under this Chapter.

(Ord. 2020-589-E , § 5)

Sec. 388.204. Liability.

An officer or employee of the City, Enforcement Officer, or a member of the City's Special Magistrate, any of whom is charged with the enforcement of this Chapter in the discharge of his/her duties, shall not thereby render themselves personally liable and he/she is hereby relieved from all personal liability for damage that may accrue to persons or property as a result of an act required or in the discharge of his/her duties. A suit brought against an officer, employee or member permitted because of this Chapter shall be defended by the Office of the General Counsel until the final termination of the proceedings.

(Ord. 2020-589-E , § 5)

PART 3. VIOLATIONS, PENALTIES AND ENFORCEMENT

Sec. 388.301. Violation notices and service.

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

(Ord. 2020-589-E , § 5)

Sec. 388.302. Form of notice.

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

(Republication)

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(Ord. 2020-589-E , § 5)

Sec. 388.303. Enforcement; civil remedies.

- (a) The provisions of this Chapter shall be enforced by members of all duly authorized law enforcement agencies within the County and its municipalities, as well as the Jacksonville Environmental Quality Division and the Jacksonville Municipal Code Compliance Division.
- (b) The provisions of this Chapter shall be enforced by any available method under law or equity, and as provided in Chapter 609 (Code Enforcement Citations) Ordinance Code; Ch. 162, Pt. II, F.S. (Supplemental County or Municipal Code or Ordinance Enforcement Procedures), and by such other means as are specified herein below.
- (c) Violations of the provisions of this Chapter can be prosecuted through any administrative board with authority to impose administrative fines and civil penalties for violations of the provisions of this Chapter, including the specific authority to order the City to abate any violation of this Chapter if a violation has not been corrected within a specified reasonable time as determined by the Special Magistrate, or through any supplemental method established under the Ordinance Code, Florida Statutes or common law.
- (d) The City shall have the right to utilize any available method to obtain restitution for the cost of abating a Floating Structure under this Chapter, which includes but is not limited to towing, removing, destroying, and disposing of the Floating Structure. Restitution for such abatement shall be placed into the Derelict Vessel and Floating Structure Removal Fund.
- (e) Notwithstanding the above, the City shall also be authorized to obtain the assistance of the courts to abate a Floating Structure. In such cases, the Chief shall request and obtain legal representation from the Office of General Counsel, to commence and maintain the necessary action in the appropriate court to assist the Chief in carrying out their responsibilities under this Chapter. The action may encompass any or all of the following proceedings:
 - (1) To make application for an injunction or restraining order, whether temporary or permanent, to prevent a person from maintaining a Floating Structure within the Waters of the County.
 - (2) To enjoin and abate the Floating Structure.
 - (3) To compel the performance of any act specifically required of any person to abate a Floating Structure.
 - (4) To authorize the City to abate the Floating Structure with City personnel, or through a private contractor, and to seek restitution for the cost of abating the Floating Structure.
- (f) Each day during any portion of which a violation of this Chapter occurs shall constitute a separate offense.
- (g) It is the legislative intent of the City Council in enacting this Chapter to provide an additional or supplemental means of obtaining compliance with the requirements stated herein. Nothing contained in this Chapter shall be deemed to prohibit the City of Jacksonville from seeking enforcement by any other means provided by law, including, but not limited to, filing an action for declaratory and injunctive relief in a court of competent jurisdiction.

(Ord. 2020-589-E , § 5)

Sec. 388.304. Penalties.

- (a) Civil penalty: Unless otherwise specified, a violation of this Chapter shall be a Class F offense, as described in Schedule 1-A of Section 609.109 (Applicable Chapters and Parts), Ordinance Code. The penalty shall be in

addition to the cost, if any, incurred by the City or other law enforcement agencies to abate the Floating Structure.

- (b) Regarding repeat violations, as defined in Chapter 609, notwithstanding Section 609.105, Ordinance Code, the penalty for the second determined violation is twice the amount of the first offender fine. The penalty of the third determined violation 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 \$500 per violation and a definite term of imprisonment of not more than 60 days as provided in § 162.22, F.S. (Designation of enforcement methods and penalties for violation of municipal ordinances); or
 - (2) As litter pursuant to § 403.413, F.S.
- (d) If any penalty of this Section is deemed inconsistent with any Florida Statute, the provisions of the Florida Statute shall prevail.

(Ord. 2020-589-E , § 5)

PART 4. ANCHORING LIMITATION AREAS

Sec. 388.401. Findings and legislative intent.

- (a) Pursuant to F.S. § 327.4108, (2022), the Florida Legislature has expressly authorized counties meeting certain criteria to enact regulations that establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic.
- (b) The Council finds that the City of Jacksonville, acting under its authority as a chartered County government pursuant to Section 1.101 of the City Charter and Section 4.102, Ordinance Code, meets the criteria established in F.S. § 327.4108, (2022), to create anchoring limitation areas within its jurisdiction.
- (c) The purpose of this Part 4 is to implement the provisions of F.S. § 327.4108, (2022), by creating anchoring limitation areas ("Anchoring Limitation Areas"), as more fully described below, which will promote the public access to the waters of the state; enhance navigational safety; protect maritime infrastructure; protect the marine environment, deter improperly stored, abandoned, or derelict vessels, and provide a civil enforcement mechanism with regard to Anchoring Limitation Areas.
- (d) Should F.S. § 327.4108 be amended, the statute will immediately take precedence over this Part 4.

(Ord. 2022-61-E , § 3)

Sec. 388.402. Definitions.

Impoundment of vessel means, for purposes of this Part, the removal of the vessel by a law enforcement officer, or under authorization of a law enforcement officer, without the ability of the owner to claim the vessel.

Navigable-in-fact waterways means waterways that are navigable in their natural or unimproved condition over which useful commerce or public recreation of a substantial and permanent character is or may be conducted in the customary mode of trade and travel on water. The term does not include lakes or streams that are theoretically navigable; have a potential for navigability; or are temporary, precarious, and unprofitable, but the term does include lakes or streams that have practical usefulness to the public as highways for transportation.

Storage of vessel means the period of time after impoundment that a vessel occupies space in the water or on land for the purpose of vessel storage.

(Ord. 2022-61-E , § 3)

Sec. 388.403. Criteria for Anchoring Limitation Areas.

The following criteria required by F.S. § 327.4108 (2022) are as follows:

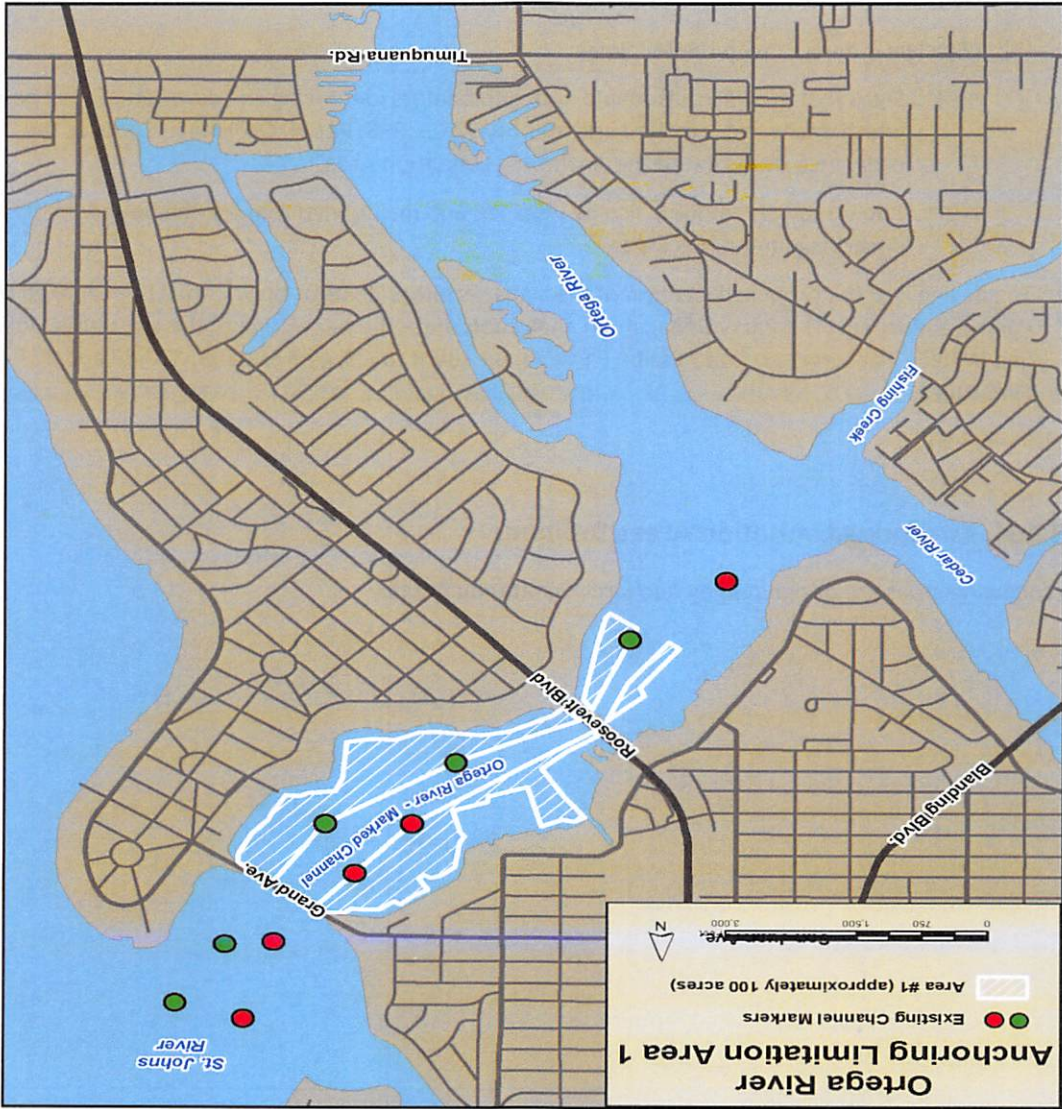
- (a) The aggregate total of Anchoring Limitation Areas within Duval County may not exceed ten percent of the County's delineated navigable-in-fact waterways.
- (b) Each Anchoring Limitation Area established herein must meet all the following requirements:
 - (1) Be less than 100 acres in size. For purposes of this subsection, the calculated size of the anchoring limitation area does not include any portion of the marked channel of the Florida Intracoastal Waterway contiguous to the anchoring limitation area;
 - (2) Not include any mooring field or marina; and
 - (3) Be clearly marked with the following:
 - (A) Signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and identifying Ch. 388, Part 4, Ordinance Code, as the ordinance that created the Anchoring Limitation Area.
 - (B) Buoys may, if required, also be installed and maintained to mark the boundary of the anchoring limitations areas.
- (c) The design and the proposed location of the signs, as either posts or buoys, shall be managed by the Parks Department. The Parks Department shall coordinate the permitting of the signs with Florida Fish and Wildlife Conservation Commission ("FWC"), pursuant to F.S. §§ 327.4108, 327.40 and 327.41, and FWC Rules.

(Ord. 2022-61-E , § 3)

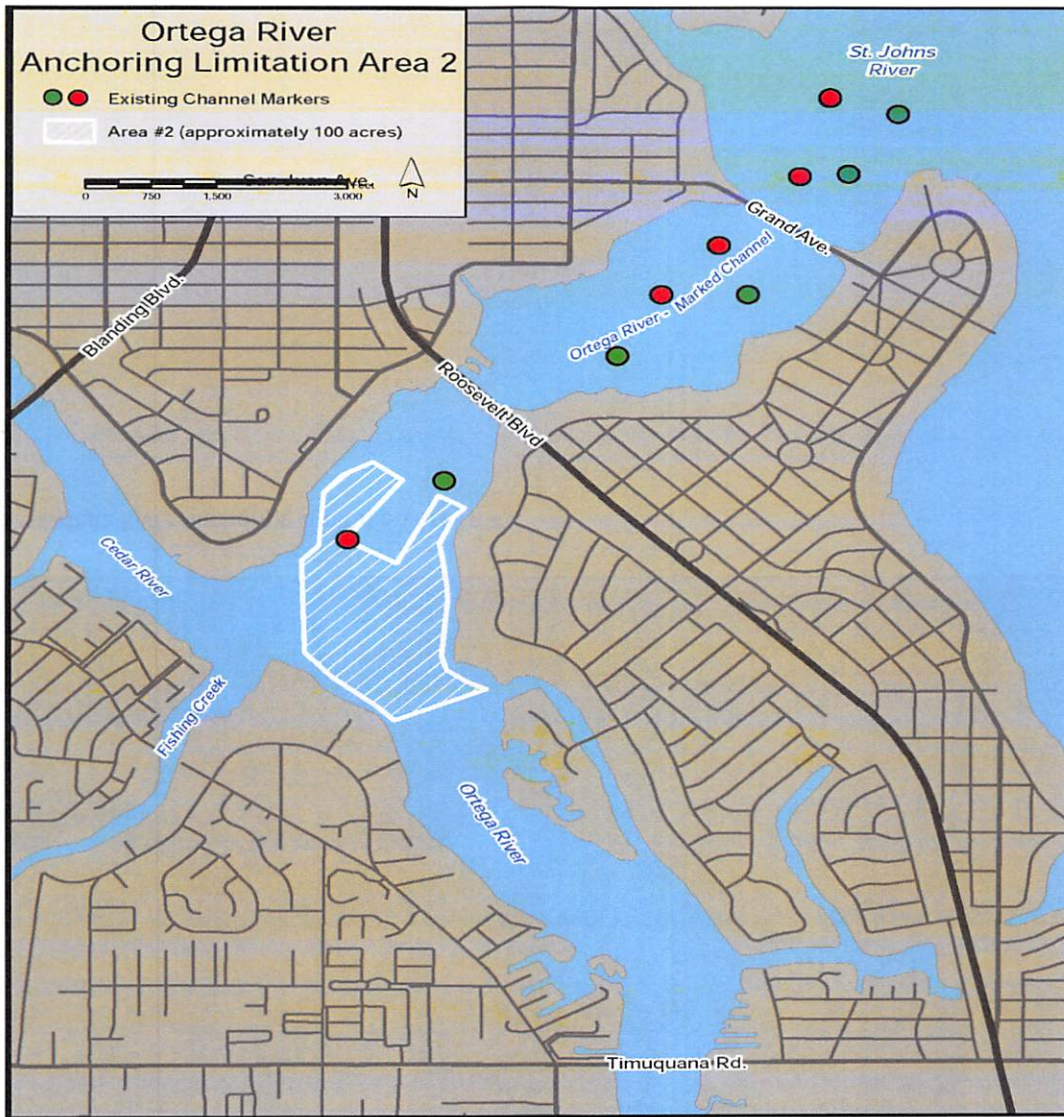
Sec. 388.404. Anchoring Limitation Areas Defined.

The following areas are designated as Anchoring Limitation Areas:

(a) Ortega River Anchoring Limitation Area # 1

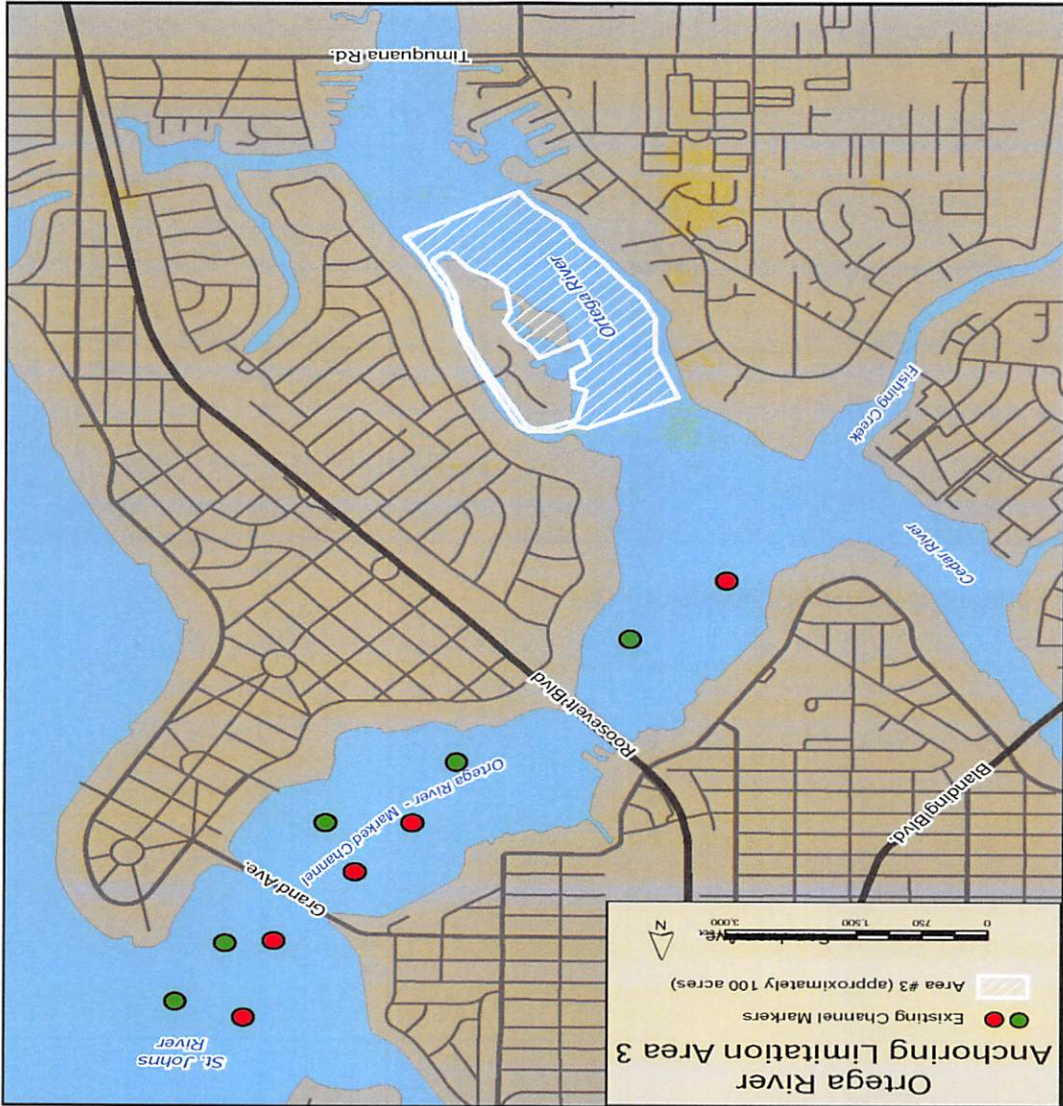


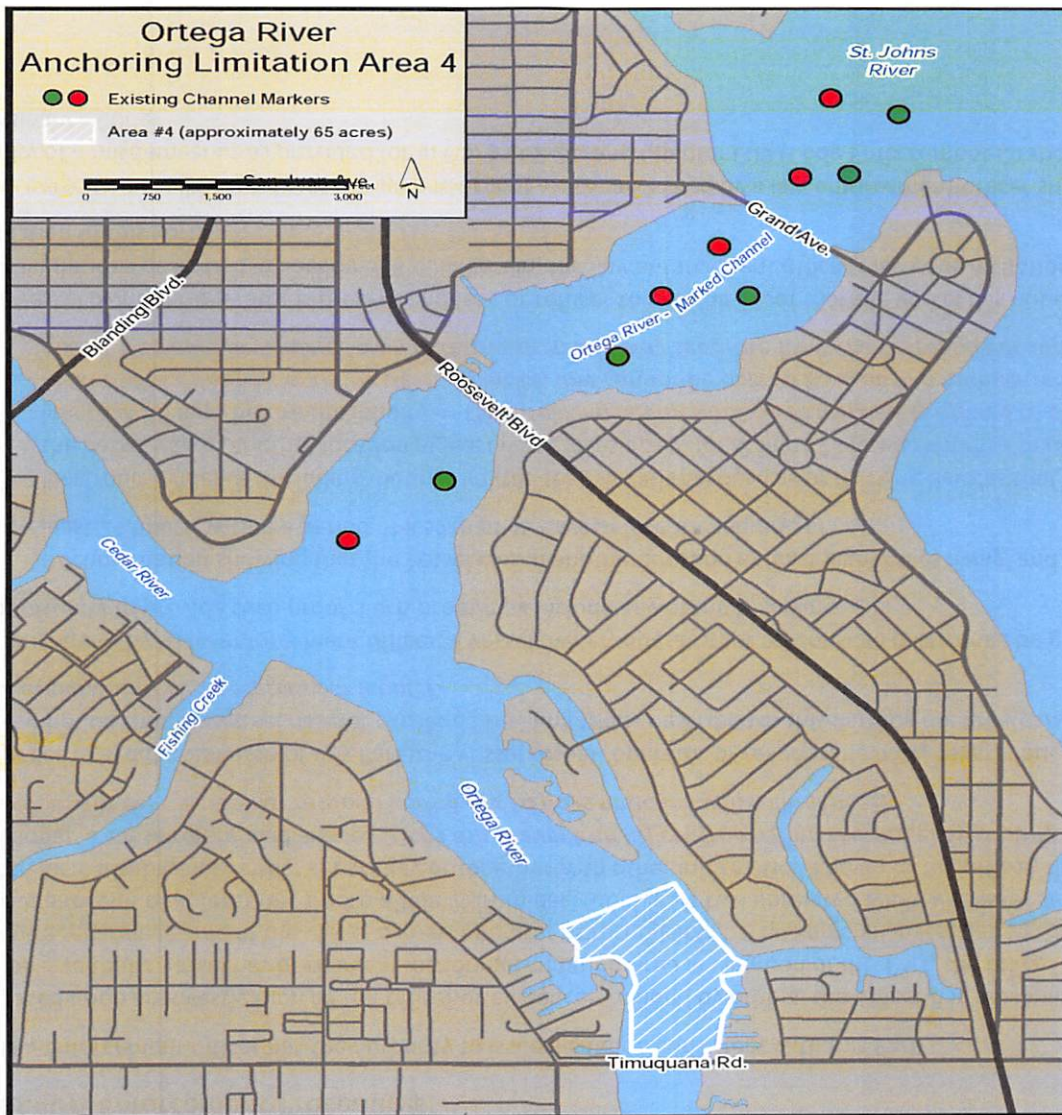
(b) Ortega River Anchoring Limitation Area # 2



(c) Ortega River Anchoring Limitation Area # 3

(d) Ortega River Anchoring Limitation Area # 4





Renderings of the boundaries of these Anchoring Limitation Areas can also be found at www.coj.net.

(Ord. 2022-61-E , § 3)

Sec. 388.405. Anchoring Restricted in Anchoring Limitation Areas.

- (a) A person may not anchor a vessel for more than 45 consecutive days in any six-month period in any Anchoring Limitation Area established in this Part without leaving all Anchoring Limitation Areas for at least 24 hours, and eight miles away, except as provided in Section 388.406 below. *(I wish this was 30 days)*
- (b) In order to not be in violation of this Part, if a person moves a vessel from an Anchoring Limitation Area on or before the forty-fourth day, then that vessel shall not relocate to another Anchoring Limitation Area within a radius of eight miles.

(Ord. 2022-61-E , § 3)

Sec. 388.406. Vessels not restricted in Anchoring Limitation Areas.

The anchoring restrictions of this Part do not apply to:

- (a) Vessels owned or operated by a governmental entity for law enforcement, firefighting, military or rescue purposes.
- (b) Construction or dredging vessels on an active job site.
- (c) Vessels actively engaged in fully licensed commercial fishing, as defined in F.S. § 327.02.
- (d) Vessels anchored or moored within the riparian rights of the owner of the vessel, and only at a maximum distance from the shore of the riparian owner that provides the depth required for the safe anchorage/mooring of such vessel, considering the swing of the vessel at mean low tide. Riparian rights means those rights incident to the lands bordering upon navigable waters, as recognized by the courts of Florida and in common law.

(Ord. 2022-61-E , § 3)

Sec. 388.407. Enforcement Procedures.

- (a) A law enforcement officer has the authority to issue a citation consistent with this Part.
- (b) If based upon an investigation by the officer or evidence provided by others, the officer has reasonable cause to believe that a vessel has been in an Anchoring Limitation Area in violation of this Part, the officer shall inquire regarding same of the vessel owner, operator or responsible party. Personal investigation may include receipt of at least one sworn affidavit from each of at least two unrelated adult witnesses setting forth facts establishing, either separately or together with other information known to the officer, the reasonable cause referenced above. *(Does this prevent an officer from citing the vessel by posting it with a requirement that the owner respond within say 14 days or action will commence?)*
- (c) In order to avoid a violation of this Part, the vessel owner, operator or responsible party must rebut the presumption that the vessel has not exceeded the limitations described in this Part, by the greater weight of the evidence. *(Is this necessary or legal?)*
- (d) Upon inquiry by a law enforcement officer, a vessel owner, operator, or responsible party must be given an opportunity to provide such proof. Such proof may include any of the following:
 - (1) Documentation showing that the vessel was in another location at least eight miles away, and for at least 24 hours, within a period of less than 45 days before the inquiry; or
 - (2) Electronic evidence, including, but not limited to, navigational devices or tracking devices that show the vessel was in another location at least eight miles away, for at least 24 hours, within a period of less than 45 days before the inquiry. *(The tracking device must be permanently affixed to the vessel, must utilize power from the vessel to operate, and cannot be able to be used in a manner which allows it to operate with its' own batteries or in any way separate from the vessel power supply.)*
- (e) If a vessel owner or operator is present and fails or refuses to provide proof that the vessel has not exceeded the limitations described in Section 388.405, herein, the law enforcement officer may issue a citation for a violation of this Part.
- (f) Any person who willfully refuses to sign and accept a citation issued by a law enforcement officer shall be guilty of a misdemeanor as provided for in F.S. § 162.21, and Chapter 609 (Code Enforcement Citations), Ordinance Code.

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(Republication)

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- (g) If the vessel owner or responsible party is not present, the law enforcement officer shall follow the standard operating procedures of the Jacksonville Sheriff's Office to locate and notify the owner or responsible party of the violation. The law enforcement officer may issue the citation through the U.S. mail if the owner or responsible party is not present. A law enforcement officer may also provide hand delivery of the citation.

(This should be changed. Cars are moved MUCH faster. The officer should be able to post the vessel, and the owner should have 14? days to respond. The logic is that an owner leaving their vessel in an anchorage area for more than 2 weeks without visiting it and assessing its' condition is not navigating or preparing to navigate. They are storing it, and this is the exact reason this Ordinance exists. The vessel owner must be engaged, and cannot leave a vessel in the elements unmonitored for extended periods. Requiring the owner to respond in 14? days means all owners leaving their vessel unmonitored in anchorage areas will have an incentive to visit the vessel, monitor its' condition, and maintain it. And if anyone complains, this governs Anchorage Areas, not every square foot of waterway. There are places you can leave the vessel, just not in the prime spots needed for navigating vessel owners.)

- (h) The civil citation shall contain:
- (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued if the person is known or is present to accept the citation and provide his or her name and address.
 - (3) The date and time the civil infraction was committed.
 - (4) The facts constituting reasonable cause.
 - (5) The number or Section of the Ordinance Code which has been violated.
 - (6) The name and authority of the Officer.
 - (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (8) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgement may be entered against the person for an amount up to the maximum civil penalty.
- (i) After issuance of a citation in person, the law enforcement officer may authorize the removal of a vessel from an Anchoring Limitation Area and impound the vessel for up to 48 hours, or may cause such removal and impoundment, if the vessel owner, operator or responsible party:
- (1) Anchors the vessel in violation of this Part within 12 hours after being issued the citation in person; or
 - (2) Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer.
- (j) If the vessel is impounded, after 48 hours have elapsed since impoundment, if the vessel owner, operator, or responsible party has not appeared to claim the vessel at the designated impoundment location, then the law enforcement officer acting under this Part is authorized to place, or have placed, the vessel into a designated storage location, at the vessel operator's expense, until the vessel owner, operator, or responsible party has claimed the vessel and paid all removal, impoundment, penalty and storage fees which have accrued since impoundment and as a result of any penalties. The owner or responsible party of the vessel may claim the vessel during storage after payment of towing, impoundment and storage fees.
- (k) A person cited for a civil infraction shall elect one of the following within 10 calendar days of the date of receipt of the citation.
- (1) To pay the **civil penalty** to the Tax Collector or to the Clerk of Court (as specified on the citation) in accordance with the schedule set forth in Section 609.109, Ordinance Code, or

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- (2) To obtain a court date from the office of the Clerk of the County Court.
- (l) If a person cited pays the civil penalty then the person has admitted to committing the violation.
- (m) If a person cited elects to obtain a court date but fails to appear in court, he shall be deemed to have admitted the violation and to have waived his right to a hearing on the issue of the Commission of the infraction.
- (n) **In addition to posting the vessel, delivery of a copy of the citation to the vessel owner shall be attempted**
~~The person to whom the citation is issued shall be provided a copy of the citation through certified mail, return receipt requested, if the address of the owner or responsible party is known. provided if such notice of the citation is sent under this paragraph is returned as unclaimed or refused, notice may be provided by posting as follows:~~
- (1) ~~Such notice may be posted at least ten calendar days prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be~~ **posted on the vessel shall satisfy this requirement, the vessel upon which the violation is alleged to exist and the other and a notice shall be posted** ~~of which shall be at Jacksonville City Hall; and~~
- (2) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (o) A vessel that is the subject of four or more violations within 12 months which result in dispositions other than acquittal or dismissal shall, by operation of law be declared to be a public nuisance and subject to F.S. § 705.103, which provides that the vessel may be removed, after a 21-day notice period, and destroyed or used for an artificial reef; or by operation of law declared to be a derelict vessel, subject to F.S. § 823.11, which provides that the vessel may be relocated, removed, stored, destroyed or disposed of.
- (p) The costs of such removal and destruction are recoverable against the vessel owner or the party determined to be legally responsible for the vessel being upon the waters of the State in a derelict condition.
- (q) Pursuant to F.S. § 327.4108(6)(d), the law enforcement agency acting under this Part to remove or impound a vessel, or to cause such removal or impoundment, shall be held harmless for any damage to the vessel resulting from such removal or impoundment unless the damage results from gross negligence or willful misconduct.
- (r) A contractor performing removal, impoundment and/or storage services or other such activities at the direction of a law enforcement officer or the Neighborhoods Department pursuant to this Part must:
- (1) Be licensed in accordance with United States Coast Guard regulations, as applicable.
- (2) Obtain and carry a current policy issued by a licensed insurance carrier in this State to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions.
- (3) Be properly equipped to perform such services.
- (Ord. 2022-61-E , § 3)

Sec. 388.408. County Court jurisdiction.

- (a) The County Court in and for the Fourth Judicial Circuit shall hear charges of code violations pursuant to the issuance of citations.
- (b) Any person so charged may contest the citation in the County Court.
- (Ord. 2022-61-E , § 3)

Sec. 388.409. Violations.

- (a) Pursuant to F.S. § 327.73(1)(z), (2022), a violation of Anchoring Limitation Areas is punishable as a noncriminal infraction for which the penalty is:
- (1) For a first offense, up to a maximum of ~~\$50~~. **The greater of \$1,000.00 or \$20.00 per foot of vessel length.**
 - (2) For a second offense, up to a maximum of ~~\$100~~. **The greater of \$2,000.00 or \$40.00 per foot of vessel length.**
 - (3) For a third or subsequent offense, up to a maximum of ~~\$250~~. **Impoundment of the vessel per the rules provided herein.**

(As of 2024, average dockage fees for vessels in a marina are \$20 per foot. The \$1,000.00 minimum penalty represents the approximate cost of docking a 30-foot vessel for 45 days at that rate. The idea is to make it the same price to dock or anchor in an Anchorage Area after the maximum time allowed. If this concept is used, the City of Jacksonville Dock Master should provide an annual update of the average cost to dock at a City Marina to use as the baseline for computing fees.)

- (b) Pursuant to F.S. § 327.72, any person who does not pay the civil penalty listed in Section 388.408 (Violations), above, within 30 days commits a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or § 775.083.
- (c) In addition to the civil penalty imposed above, the owner or operator of a vessel that is removed and impounded pursuant to Section 388.407, Ordinance Code, must pay all removal and storage fees before the vessel is released. A vessel removed pursuant to Section 388.407 may not be impounded for longer than 48 hours. Following impoundment, the vessel may be stored as described in Section 388.407(j).
- (d) All penalties and fines relating to this Chapter shall be placed into the *Derelict and Abandoned Vessel and Floating Structure Enforcement and Removal Trust Fund*, Sec. 111.787, Ordinance Code. Reimbursement for the removal, impoundment and storage of vessels resulting from the enforcement of this Part shall be provided to the entity that initially paid for those services.

(Ord. 2022-61-E , § 3)