

50 **WHEREAS**, the Monroe County Board of County Commissioners (hereinafter the
51 “Board”) finds and recognizes that the Supreme Court of the United States (hereinafter the
52 “Court”), pursuant *Lozman v. City of Riviera Beach*, 568 U.S. 115 (U.S. 2013), holds that an
53 article (hereinafter “entity”) situated upon the water does not constitute a “vessel” within the
54 meaning of said Act if “a[n objective] reasonable observer, looking to” its “physical
55 characteristics and activities, would not consider it to be designed to any practical degree for
56 carrying people or things on water.”; and

57
58 **WHEREAS**, the Court, by adopting the foregoing objective purposive test in that certain
59 *Lozman* decision, eliminated consideration of the owner’s subjective intent in vessel status
60 determinations; and

61
62 **WHEREAS**, the Board finds and recognizes that while the Court, in that certain *Lozman*
63 decision, held that “lack of self-propulsion is not dispositive” of whether an entity constitutes a
64 “vessel” within the meaning of said Act, the Court nonetheless held that “lack of self-propulsion”
65 may be a relevant physical characteristic to consider in deciding whether an entity constitutes a
66 “vessel”; and

67
68 **WHEREAS**, the Board finds and recognizes that the Court, in that certain *Lozman*
69 decision, held that the Petitioner’s floating home did not constitute a “vessel” within the meaning
70 of said Act in view of that (1) it was incapable of self-propulsion, (2) it had no rudder or other
71 steering mechanism, (3) it had an unraaked hull, (4) it had a rectangular bottom, (5) it had a draft
72 of only 10 inches below water, (6) its infrequency of past movement (based upon the fact that,
73 prior to its in rem arrest, it had traveled by tow over water only on four occasions over a 7-year
74 period), (7) it could not be moved without dangerously swinging side-to-side (based upon the fact
75 that when it had been towed, it had required a second boat to follow it from behind to prevent it
76 from swinging dangerously side-to-side), (8) it had no special capacity to generate or store
77 electricity, (9) its similarity to land-based residences (based upon the fact that its rooms looked
78 like ordinary non-maritime living quarters), (10) it had ordinary windows and unsealed French
79 doors rather than watertight portholes, and (11) it had no other feature that might suggest a design
80 to transport over water anything other than its own furnishings and related personal effects; and

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82 **WHEREAS**, the Board has identified that it has become an increasingly common
83 practice to moor, anchor, or otherwise affix floating structures over or otherwise upon waters
84 included within the territorial jurisdiction of the State of Florida and County waters, including (1)
85 anchoring, mooring, or otherwise affixing floating structures to unpermitted, unauthorized, or
86 otherwise unlawful objects lying at or near the bottom of said waters including but not limited to
87 upon sovereign submerged lands, (2) anchoring, mooring, tying off, or otherwise affixing floating
88 structures to State of Florida and/or County-owned uplands and over or otherwise upon such
89 waters and/or sovereign submerged lands, and (3) anchoring, mooring, tying off, or otherwise
90 affixing floating structures to plant species protected by federal, state, and/or local law(s), rule(s),
91 or regulation(s) pursuant to an endangered, threatened, or species of special concern designation
92 or listing and/or plant species (including, but not limited to, mangroves) whose defoliation or
93 destruction is subject to special protections under the Monroe County Comprehensive Plan and
94 Code(s) and special permitting requirements pursuant to the Florida Mangrove Trimming and
95 Preservation Act; and

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97 **WHEREAS**, the waters surrounding the Florida Keys of Monroe County, Florida, are
98 situated within the boundaries of the Florida Keys National Marine Sanctuary and have, since
99 July 26, 2001, been designated a federal No Discharge Zone (NDZ) by the United States

100 Environmental Protection Agency pursuant to Title 40, Chapter I, Subchapter D, Part 140,
101 Section 140.4(b)(1)(ii), as may be amended from time to time; and
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103 **WHEREAS**, the Board finds that floating structures in the county commonly (1) contain
104 greywater and/or blackwater discharge facilities such as washrooms, showers, toilets, latrines,
105 and/or outhouses, (2) do not contain a bilge pump(s), (3) do not contain a marine sanitation
106 device(s), (4) hold unsecured or poorly contained stored fuel(s) and other potentially dangerous
107 and/or hazardous products and materials such as propane tanks and furniture, (5) contain living
108 quarters and/or recreational areas, (6) are utilized for the purpose of storage and/or habitation, (7)
109 do not have navigational lights, (8) do not feature identifying information which a local, state, or
110 federal government or enforcement agency may utilize to ascertain their owner(s) in a reasonably
111 timely manner, (9) are rafted up to larger “primary” vessels or to larger “primary” floating
112 structures, (10) do not securely hold on anchor, (11) are not built to any manufacturing
113 standard(s) and/or building code(s), (12) are unauthorizedly or unlawfully anchored or moored
114 upon sovereign submerged lands, (13) are commonly abandoned, (14) lack means of propulsion
115 necessary to quickly relocate in advance of or during extreme weather events or other emergency
116 events, and (15) cost Monroe County significantly more than vessels to remove and dispose of;
117 and
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119 **WHEREAS**, neither the United States nor the State of Florida have pre-empted the
120 several states or local governments from legislating in the field of floating structure regulation;
121 and
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123 **WHEREAS**, Section 327.60(3), Florida Statutes, provides, in pertinent part, that Chapter
124 327, Florida Statutes, “does not prohibit local governmental authorities from the enactment or
125 enforcement of regulations that prohibit or restrict the mooring or anchoring of floating
126 structures[.]”; and
127

128 **WHEREAS**, Article VIII, Section 1.(f), of the Florida Constitution, vests the Board with
129 the authority to legislate countywide, except within a municipality that has adopted an ordinance
130 which conflicts with a County ordinance; and
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132 **WHEREAS**, Monroe County Ordinance 14-2010 - Section 12-141, codified at Section
133 12-141 of Chapter 12 of the Monroe County Code of Ordinances (entitled “Environmental and
134 Natural Resource Protection”), defines “County waters” as “[A]ny Monroe County waters,
135 whether contained within boundaries naturally artificially, or diffused, including, but not limited
136 to the Gulf, bays, canals, estuaries, and wetlands. County waters include those waters which are
137 part of the State as being specified within Monroe County pursuant to Section 7.44, Florida
138 Statutes, and Article II, Section 1, Constitution of the State of Florida (Rev. 1968), waters out to
139 three marine leagues, or waters in the immediate vicinity of county reefs.”; *see also* Section 7.44,
140 Florida Statutes (“So much of the State of Florida as is situated south of the County of Collier and
141 west or south of the County of Miami-Dade, constitutes the County of Monroe.”); *see also*
142 *Bateman v. State*, 238 So. 621, 626-27 (Fla. 1970) (Ervin, C.J., dissenting) (“Monroe County’s
143 boundary is described in Section 7.44, Florida Statutes, as follows: “So much of the State of
144 Florida as is situated south of the county of Collier and west or south of the county of Dade,
145 constitutes the county of Monroe.” It follows, of course, from this description that all submerged
146 lands or navigable waters in the southernmost portion of the state of Florida that do not lie in
147 Collier and Dade counties are a part of Monroe County.”), *rev’d on other grounds*; *see also*
148 *Lipscomb v. Gialourakis*, 133 So. 104, 107 (Fla. 1931) (“[I]t must be construed that counties
149 bordering on the Gulf of Mexico include that area within the Gulf adjacent to the upland and
150 adjacent to the state boundary line.”); and

151 **WHEREAS**, Article II, Section 1.(a) of the Florida Constitution provides that the state’s
152 (and therefore Monroe County’s) territorial boundaries on the east side extend “to the edge of the
153 Gulf Stream or a distance of three geographic miles[,] whichever is the greater distance[.]” To
154 that end, on any given day, the Gulf Stream is in a different location. *See Benson v. Norwegian*
155 *Cruise Line, Ltd.*, 859 So. 2d 1213, 1215-16 (Fla. 3rd DCA 2003); and

156
157 **WHEREAS**, public and navigable waterways are public highways. *See State ex rel.*
158 *Wilcox v. T.O.L., Inc.*, 206 So. 2d 69, 71 (Fla. 4th DCA 1968); and

159
160 **WHEREAS**, a county has the right to close public roads and highways where necessity
161 dictates on a temporary or a permanent basis, and the general authority of the boards of county
162 commissioners over the location of public roads in their respective counties has been held to be
163 plenary. *Id.*, *cf.* at 72; and

164
165 **WHEREAS**, the power of local governments to regulate and restrict certain activities
166 reasonably calculated to protect the public health, safety, and welfare, is subject to the State of
167 Florida’s paramount power to regulate and control the use of its sovereign submerged lands; and

168
169 **WHEREAS**, where private ownership of submerged bottoms outward from the shore has
170 originated upon a valid conveyance out of the State of Florida, state law establishes that
171 submerged land included in such grants are subject to taxes lawfully imposed. *See Section*
172 *253.141(4)*, Florida Statutes; and

173
174 **WHEREAS**, Section 192.001(17), Florida Statutes, provides, in pertinent part, that “A
175 floating structure is expressly included as a type of tangible personal property.”; and

176
177 **WHEREAS**, “littoral or riparian rights are appurtenances to ownership of littoral or
178 riparian uplands. They are not founded on ownership of submerged lands.” *See Hayes v.*
179 *Bowman*, 91 So. 2d 795, 802 (Fla. 1957); and

180
181 **WHEREAS**, littoral and riparian rights are those incident to uplands bordering upon
182 navigable waters, such rights are appurtenant to and inseparable from the littoral or riparian
183 upland, and inure to the owner of the littoral or riparian land, but are neither owned by the upland
184 landowner nor are of a proprietary nature. *See Section 253.141(1)*, Florida Statutes; and

185
186 **WHEREAS**, littoral and riparian landowners “have no rights in navigable waters and
187 state sovereign submerged lands that are superior to other members of the public with regard to
188 rights of bathing, fishing, and navigation.” *See Walton County v. Stop the Beach Renourishment,*
189 *Inc.*, 998 So. 2d 1102, 1111 (Fla. 2008), *aff’d*, 560 U.S. 702 (U.S. 2010); and

190
191 **WHEREAS**, “[a] private action cannot be maintained by one who has no interest in [a]
192 waterway beyond that enjoyed by the public in common to use it as a highway.” *See Bertram v.*
193 *State Road Dept.*, 118 So. 2d 674, 675 (Fla. 3rd DCA 1960); and

194
195 **WHEREAS**, while littoral and “riparian rights exist in Florida as a matter of
196 constitutional right and property law, it is the clearly established law of Florida that even
197 constitutional rights may be regulated.” *See Central Florida Investments, Inc. v. Orange County*
198 *Code Enforcement Board*, 790 So. 2d 593, 597 (Fla. 5th DCA 2001); and

199
200 **WHEREAS**, under Florida law, there is no recognized common law, constitutional, or
201 statutory littoral or riparian right to anchor, moor, or otherwise indefinitely or permanently affix

202 or situate a floating structure upon or over waters included within the territorial jurisdiction of the
203 State of Florida, or upon or over County waters, including but not limited to upon sovereign
204 submerged lands; and
205

206 **WHEREAS**, the Monroe County Board of County Commissioners finds that this
207 Ordinance is necessary to advance the County’s valid public, navigational, and environmental
208 health, safety, and welfare police power interests;
209

210 **NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF**
211 **COUNTY COMMISSIONERS:**
212

213 **SECTION 1. - Recitals and Legislative Intent.** The foregoing recitals and statements of
214 legislative intent are true and correct and are hereby incorporated as if fully stated herein.
215

216 **SECTION 2. - Title.** This Ordinance shall be titled the “Monroe County Floating Structure
217 Prohibition Ordinance.”
218

219 **SECTION 3. - Creation.** That Chapter 26 of the Monroe County Code of Ordinances, entitled
220 “Waterways,” is hereby amended to create Article VIII., entitled “Floating Structures,” as
221 follows:
222

223 **ARTICLE VIII. - FLOATING STRUCTURES**
224

225 **Section 26-214. Jurisdiction; Administration.**
226

- 227 (a) *Monroe County.* This Article shall apply to waters included within County waters and
228 submerged lands underlying County waters. Monroe County and any authorized
229 federal or state enforcement agency may enforce violations of this Article.
230
- 231 (b) *Municipalities Within Monroe County.* This Article does not apply to waters within
232 the territorial jurisdiction of any municipality within the county unless and until such
233 municipality adopts this ordinance. Upon such adoption, this Article applies to waters
234 included within the territorial jurisdiction of the adopting municipality and
235 submerged lands underlying such waters; upon such adoption, any authorized federal
236 or state enforcement agency may enforce violations of this Article within the
237 territorial jurisdiction of the adopting municipality.
238

239 **Section 26-215. Definitions.** The phrases, terms, and words used in this Article shall be,
240 except as specifically defined otherwise herein, the same as they have been defined in the Monroe
241 County Code of Ordinances and in the Monroe County Land Development Code. The following
242 terms shall have the following specific definitions as used herein:
243

244 *Anchor.* Shall mean use of traditional ground tackle, typically including an anchor,
245 anchor chain, and line, appurtenant to a floating structure, and used to hold a floating structure in
246 place.
247

248 *Barge.* Shall mean that term as it is defined at Section 327.02, Florida Statutes.
249

250 *Floating Structure.* Shall mean a floating entity, with or without accommodations built
251 thereon, which is not primarily used as a means of transportation on water but which serves
252 purposes or provides services typically associated with a structure or other improvement to real

253 property. The term includes, but is not limited to, an entity used as a residence, place of business
254 or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting
255 facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or
256 entity represented as such. Floating structures are expressly excluded from the definition of the
257 term “vessel” provided in this section. Incidental movement upon water or resting partially or
258 entirely on the bottom does not, in and of itself, preclude an entity from classification as a
259 floating structure. In the event it is disputed whether an entity constitutes a floating structure
260 versus a vessel, such dispute shall be exclusively determined, under a preponderance of the
261 evidence standard, by analyzing (1) whether it is capable of self-propulsion, (2) whether it has a
262 rudder or other steering mechanism, (3) whether it has a raked hull, (4) whether it has a
263 rectangular or a square bottom, (5) by comparing its draft to the drafts of vessels of a similar
264 physical size, (6) its infrequency of documented past geographical movement, (7) whether it can
265 be moved over meaningful distances without dangerously or hazardously swinging from side-to-
266 side, (8) if it has a (lawful) capacity to generate or store electricity, (9) whether it has a bilge
267 pump(s), (10) whether it has an approved marine sanitation device(s), (11) whether its above-
268 water surface area(s) bear similarity to the interior or exterior of a land-based residential or
269 commercial structure, (12) whether it has ordinary windows, open doorways, or unsealed doors,
270 (13) whether it has any other physical features that might suggest to an objective reasonable
271 observer a design to transport over water anything other than its own furnishings and related
272 personal effects, and (14) whether it is titled and registered as a vessel. Payment of a tangible
273 personal property tax regarding the entity in question or issuance or receipt of a tax exemption
274 thereto, pursuant to Section 192.001(17), Florida Statutes, shall constitute prima facie evidence
275 that the entity in question constitutes a floating structure under this Article.

276
277 *Houseboat.* Shall mean that term as it is defined at Section 327.02, Florida Statutes.

278
279 *Live-Aboard Vessel.* Shall mean that term as it is defined at Section 327.02, Florida
280 Statutes.

281
282 *Marina.* Shall mean that term as it is defined at Chapter 101, Monroe County Land
283 Development Code.

284
285 *Marine facility.* Shall mean that term as it is defined at Chapter 101, Monroe County
286 Land Development Code.

287
288 *Moor.* Shall mean use of a device, placed on or affixed to the bottom, intended for
289 permanent use, to hold a floating structure in place. As used in this Article, except as to the terms
290 “lawfully moored in a public mooring field” and “lawfully moored on a permitted private
291 mooring,” to moor or a mooring shall include other meanings of mooring such as tying off a
292 floating structure to upland vegetation or to offshore beams, pilings, posts, or stakes. For purposes
293 of clarification, “offshore beams, pilings, posts, or stakes” means beams, pilings, posts, or stakes
294 neither attached to nor meaningfully connected to a lawfully established dock which itself is
295 affixed and appurtenant to and extends out from an upland parcel.

296
297 *Vessel.* Shall mean that term as it is defined at Section 327.02, Florida Statutes.

298
299 *Water Column and water(s).* The vertical extent of water, including the surface thereof,
300 above an area of submerged land, regardless of such land’s public or private ownership.

301

302 *Limitation Clause.* Application of the foregoing specifically defined terms is limited to
303 this Article, and these terms shall not re-define, modify, override, or supersede any such term
304 defined elsewhere in the Monroe County Code(s).
305

306 **Section 26-216. Construction and Interpretation.** This Article, being necessary for the
307 health, safety, and welfare of the residents of the county, shall be liberally construed to effect the
308 public purposes hereof, and interpretation of this Article shall be deferred in favor of Monroe
309 County, the applicable federal or state enforcement agency, or municipality, and such
310 construction and interpretation shall be entitled to great weight in adversarial administrative
311 proceedings, on trial, and on appeal.
312

313 **Section 26-217. Prohibitions.**
314

- 315 (a) All legal and natural persons are prohibited from mooring, anchoring, or otherwise
316 indefinitely or permanently affixing, a floating structure upon, or to, waters or
317 submerged lands included within County waters.
318
- 319 (b) All legal and natural persons are prohibited from anchoring, mooring, tying off, or
320 otherwise indefinitely or permanently affixing a floating structure to State of Florida
321 or County-owned uplands and over or otherwise upon waters or sovereign submerged
322 lands included within County waters.
323
- 324 (c) All legal and natural persons are prohibited, within waters or submerged lands
325 included within County waters, from anchoring, mooring, tying off, or otherwise
326 affixing a floating structure to one or more plant species protected by federal, state,
327 or local law(s), rule(s), or regulation(s) pursuant to an endangered, threatened, or
328 species of special concern designation or listing; all legal and natural persons are
329 prohibited, within waters or submerged lands included within County waters, from
330 anchoring, mooring, tying off, or otherwise affixing a floating structure to one or
331 more plant species (including, but not limited to, mangroves) whose defoliation or
332 destruction is subject to special protections under the Monroe County Comprehensive
333 Plan and Code(s) and special permitting requirements under the Florida Mangrove
334 Trimming and Preservation Act, codified at Sections 403.9321-403.9333, Florida
335 Statutes, as may be amended or supplemented.
336
- 337 (d) All legal and natural persons are prohibited from constructing, placing, or
338 maintaining a floating structure violative of this Article; all legal and natural persons
339 are prohibited from proximately causing or proximately contributing to the
340 construction, placement, or maintenance of a floating structure violative of this
341 Article.
342
- 343 (e) All natural and legal persons are prohibited from storing items upon, occupying, or
344 residing upon a floating structure violative of this Article.
345
- 346 (f) Any municipality that later adopts this ordinance may independently enact its own
347 separate-and-distinct subsection of enumerated prohibitions.
348

349 **Section 26-218. Exceptions.**
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- 351 (a) This Article shall not apply to floating structures lawfully moored in a permitted
352 public mooring field. For purposes of clarification, "lawfully moored in a permitted

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public mooring field” means moored to a mooring ball or mooring buoy that is authorized under federal, state, and local law(s), which has received all required federal, state, and local permits and approvals, and which is situated within a mooring field managed by a local government.

- (b) This Article shall not apply to floating structures lawfully moored on a permitted private mooring. For purposes of clarification, “lawfully moored on a permitted private mooring” means a private party’s mooring to a mooring ball or mooring buoy when such mooring is both authorized under federal, state, and local law(s), and when that private party has received all required federal, state, and local permits and approvals to so moor.
- (c) This Article shall not apply to vessels, including (but not limited to) barges (including (but not limited to) mobile platforms such as jackup rigs), houseboats, and live-aboard vessels.
- (d) This Article shall not apply to a floating structure that federal, state, and local proprietary laws and regulations expressly permit, when such structure has received all such required federal, state, and local permits and approvals (such as, for example, 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, by Monroe County pursuant to the Monroe County Code(s), and by all applicable federal permitting agencies), and is in compliance with all conditions of said permits and approvals. For purposes of clarification, “expressly permit” exclusively means express authorization, of both all material components comprising the structure itself, and of the placement or situation of that 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 structure.
- (e) This Article 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)).
- (f) This Article 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.
- (g) This Article shall not apply to a floating structure moored at a lawfully established marina or moored at a lawfully established marine facility. It is hereby understood that it shall be the responsibility of the owner(s) or proprietor(s) of lawfully established marinas and marine facilities to ensure that floating structures moored thereto comply with all applicable local, state, and federal proprietary, safety, environmental, and pollution control laws, rules, and regulations.
- (h) Any municipality that later adopts this ordinance may independently enact its own separate-and-distinct subsection of enumerated exceptions.

404 **Section 26-219. Penalties; Enforcement Procedure.**
405

406 (a) *Criminal Offense.* Prosecution of violations of this Article may be prosecuted in the
407 name of the State of Florida by the prosecuting attorney thereof as more fully set
408 forth in Section 125.69(1), Florida Statutes. Any person or entity found guilty of
409 violating this Article may be sentenced to up to sixty (60) days in jail, or fined in an
410 amount of up to \$500.00, or be subject to both imprisonment and fines.
411

412 (b) *Civil Offense.* Violations of this Article may be prosecuted by Monroe County and by
413 any municipality located within the county, by original county or circuit court action,
414 or under Chapter 162, Florida Statutes, and Chapter 8, Monroe County Code, or
415 pursuant to the pertinent municipality's code compliance ordinances,
416 administratively, at law, and in equity, as may be necessary to enforce compliance
417 with this Article, and to collect damages in the form of fines authorized by law.
418

419 1) *Authority to Dismantle or Remove Offending Floating Structures.* For any
420 violation of this Article, Monroe County may initiate an original county or
421 circuit court action, or code compliance proceedings pursuant to Chapter
422 162, Florida Statutes, and Chapter 8, Monroe County Code. The County may
423 dismantle or remove a floating structure held in violation of this Article, and
424 at its sole discretionary election may make arrangements to store or return it
425 to the rightful owner, upon the owner's payment of all reasonable costs
426 associated with said dismantlement, removal, or storage.
427

428 2) *Municipal Authority to Dismantle or Remove Offending Floating Structures.*
429 For any violation of this Article, each municipality within the county may
430 initiate an original county or circuit court action, or code compliance
431 proceedings pursuant to its own code enforcement ordinances and Chapter
432 162, Florida Statutes. Each municipality may dismantle or remove a floating
433 structure held in violation of this Article, and at its sole discretionary election
434 may make arrangements to store or return it to the rightful owner, upon the
435 owner's payment of all reasonable costs associated with said dismantlement,
436 removal, or storage.
437

438 (c) *Federal, State Authority to Dismantle or Remove Offending Floating Structures.* Any
439 federal or state enforcement agency may by original action, or pursuant to its own
440 codified or administrative enforcement scheme, criminally, civilly, or
441 administratively enforce against any violation of this Article. Any federal or state
442 enforcement agency may dismantle or remove a floating structure held in violation of
443 this Article, and at its sole discretionary election may make arrangements to
444 impound, store, or return it to the rightful owner, upon the owner's payment of all
445 reasonable costs associated with said dismantlement, removal, impoundment, or
446 storage.
447

448 (d) *Injunctive Relief.* The county attorney, the attorneys for each municipality within the
449 county, and all federal or state enforcement agency attorneys are authorized to
450 immediately seek affirmative or negative injunctive relief authorizing or
451 commanding the dismantlement, removal, covering, or cessation of activities,
452 construction, maintenance, practices, renovations, repairs, or uses in violation of this
453 Article by motion for emergency, preliminary, or permanent injunction, including by
454 ex parte motion, or other forms of equitable relief, from a court of competent

455 jurisdiction, upon presentation of prima facie evidence of a violation of this Article to
456 such court.

- 457
- 458 (e) *Units of Prosecution.* It being that floating structures in violation of this Article
459 present a serious threat to the public, navigational, and environmental health, safety,
460 and welfare, a rebuttable presumption shall arise that violation of this Article
461 constitutes a violation that is irreparable or irreversible in nature. Each day that a
462 prohibited floating structure remains in violation of this Article constitutes a separate
463 irreparable or irreversible offense.
464
- 465 (f) *Joint-and-Several Liability.* All owners, part owners, joint owners, tenants-in-
466 common, tenants in partnership, joint tenants, tenants by the entirety, lessees, sub-
467 lessees, assignees, sub-assignees, and holders of legal or beneficial title to or interest
468 in a floating structure held in violation of this Article, shall be jointly-and-severally
469 liable with respect to any legal or equitable judgment or relief obtained by a federal
470 or state agency, the State of Florida, Monroe County, or a municipality within the
471 county.
472
- 473 (g) *Costs.* Any court of competent jurisdiction, administrative hearing officer, the
474 Monroe County Code Compliance Special Magistrate, and the code enforcement
475 boards and special magistrates of each municipality within the county, are authorized
476 to impose against violators of this Article any costs associated with the
477 dismantlement, removal, impoundment, or storage of any floating structure held in
478 violation of this Article.
479
- 480 (h) *No Waiver or Estoppel.* It being that Monroe County, the State of Florida, federal or
481 state enforcement agencies, and municipalities within the county possess discretion to
482 enforce this Article, such local governments' or state or federal enforcement
483 agencies' delay or failure to enforce any provision contained in this Article, however
484 long continued, shall not be deemed a waiver or estoppel of the right for the local
485 government or state or federal enforcement agency to enforce this Article at any time
486 thereafter.
487
- 488 (i) The Monroe County Marine Resources Office is authorized to contract on an on-call
489 basis with at least one marine salvage company to assist with the expeditious
490 covering, dismantlement or removal of floating structures held in violation of this
491 Article. The Marine Resources Office is authorized to cover, dismantle, or remove
492 such offending floating structures pursuant to said contract(s).
493

494 **Section 26-220. Provisions to Be Cumulative.** This Article is cumulative to any other
495 substantive laws, ordinances, regulations, and rules, and is cumulative to any
496 enforcement procedure that those laws, ordinances, regulations, and rules may provide.
497 This Article does not supersede or repeal or otherwise modify those laws, ordinances,
498 regulations, rules, or enforcement procedures thereunder in any way.
499

500 **Section 26-221. Private Right-of-Action.** Any natural person may seek injunctive relief
501 in a court of competent jurisdiction to enforce violations of this Article against a violator.
502

503 **SECTION 4. - Inconsistency, Partial Invalidity, Severability, and Survival of Provisions.** If
504 any provision of this Article, or any portion thereof, is held to be invalid or unenforceable in or by
505 any administrative hearing officer or court of competent jurisdiction, the invalidity or

506 unenforceability of such provision, or any portion thereof, shall neither limit nor impair the
507 operation, enforceability, or validity of any other provision of this Article, or any remaining
508 portion(s) thereof. All other provisions of this Article, and remaining portion(s) thereof, shall
509 continue unimpaired in full force and effect.

510
511 **SECTION 5. - Repeal of Inconsistent Provisions.** All ordinances or parts of ordinance in
512 conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an
513 ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance
514 which has been repealed thereby.

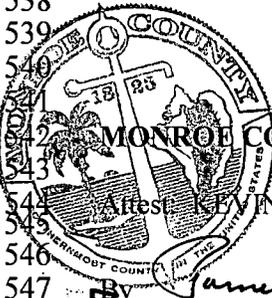
515
516 **SECTION 6. - Captions and Paragraph Headings.** Captions and paragraph headings, where
517 used herein, are inserted for convenience only and are not intended to descriptively limit the
518 scope and intent of the particular paragraph or text to which they refer.

519
520 **SECTION 7. - Inclusion in the Monroe County Code of Ordinances.** The provisions of this
521 ordinance shall be included and incorporated into the Code of Ordinances of Monroe County,
522 Florida and shall be numbered to conform with the uniform numbering system of the Code.

523
524 **SECTION 8. - Effective Date.** This ordinance shall be filed in the Office of the Secretary of the
525 State of Florida and shall become effective as provided by law.

526
527 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida
528 at a regular meeting held on the 18th day of July, 2018.

531	Mayor David P. Rice	Yes
532		_____
533	Mayor <i>pro tem</i> Sylvia J. Murphy	Yes
534		_____
535	Commissioner Danny L. Kolhage	Yes
536		_____
537	Commissioner Heather Carruthers	Yes
538		_____
539	Commissioner George Neugent	Yes



542 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**

543 Attest: KEVIN MADOK, CLERK

544
545 *James Sturrock*
546 _____
547 Deputy Clerk

By *David Rice*

Mayor David Rice

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

Peter Morris

PETER MORRIS
ASSISTANT COUNTY ATTORNEY

Date: *6/20/18*

FILED FOR RECORDS

2018 AUG -1 PM 1:35

CLERK CIR. CL.
MONROE COUNTY.