ORDINANCE NO. 09 - 03

Entitled

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA; PRESCRIBING RULES GOVERNING THE OPERATION AND USE OF ALL PUBLIC DOCKS LOCATED WITHIN THE CITY; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the enactment and enforcement of rules and guidelines governing the operation and use of all docks or docking facilities located upon or connected to property owned by the City of Palatka is necessary in order to assure consistency in the application of the City's policies and in order to assure compliance with conditions under which funding for at least one of such docks was secured; and,

WHEREAS, the City Commission has taken specific note of conditions set forth in the Department of Environmental Regulation permit number 541932442, dated July 17, 1991, in which authorization for the construction of a public dock (known as the "City dock"), was specifically conditioned upon terms which, among others, allowed only the "temporary" (less than 48 hours) mooring of vessels and required the facility to be open to the general public without charge; and,

WHEREAS, the rules and regulations set forth within this Ordinance are intended to apply not only to the "City dock", but also to all other docking facilities located upon or connected to property owned by the City of Palatka and are believed to be necessary in order to promote the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED by the citizens of the City of Palatka, Florida:

SECTION I: Use of City docking facilities. All docking facilities located upon or connected to property owned by the City of Palatka shall be open to the general public for use without charge, provided however that charges may be assessed at a reasonable rate for water, electrical, sewage pump-out facilities, or similar services provided by the City, or by the City's designee, at said docking facilities.

a) **Charges for services:** Charges to be assessed for electrical, water, sewage pump-out, or similar services, shall be established by the City Manager and approved by the City Commission, as described in "ATTACHMENT A" which is hereby adopted as part of this Ordinance. A method of collecting said charges shall be created and implemented by the City Manager, with approval of the City Commission. The rate at which charges are to be assessed for services at the City's docking facilities shall be prominently displayed upon a sign or placard to be located at the facilities at which the services are to be provided.

SECTION II: **Prohibited Uses.** Notwithstanding anything set forth above or elsewhere herein, the following uses and actions at City docking facilities are hereby specifically prohibited:

a) Extended stays. Only temporary mooring of vessels shall be permitted. For purposes of this sub-paragraph, "temporary" shall be defined as any continuous stay of less than 48 hours. However, the mooring of a vessel shall not be defined as "temporary" if the vessel is being moored regularly and routinely at the City's public docking facilities, even if the vessel is moved periodically so as to avoid violating the "48 hour stay" rule set forth above. Any vessel that is moored at the City dock for and during the period of 6 hours or more during any calendar day and for more than 10 calendar days during any calendar month shall be deemed in violation of this sub-section.

b) Recreational use only. No commercial activities of any kind shall be conducted upon or in association with any vessel moored at the City dock. Nothing within this section or this Ordinance shall, however, prohibit the City from authorizing the mooring of vessels at the City dock in connection with commercial activities if the use of said vessel and/or said activities are in association with or related to a City sponsored activity.

c) Non-emergency repairs prohibited. The City docking facilities shall not be utilized for the purposes of effecting repairs to any vehicle or vessel, other than emergency repairs. For purposes of this sub-paragraph, "emergency repairs" shall be defined as those non-routine repairs necessary to prevent a vessel from sinking or being otherwise damaged or destroyed, or, necessary to restore a vessel to operational status. However, any emergency repair shall be completed within 48 hours of the time of the vessels mooring unless at the expiration of said time, it is impossible to move the vessel without endangering the vessel or those who are aboard it. The City Manager shall be vested with the authority to determine on a case by case basis whether or not conditions exist which justify allowing a vessel to remain moored at a City dock in excess of 48 hours for the purpose of effecting emergency repairs.

d) Swimming and diving. Diving or jumping into the water from the City's docking facilities, or swimming or wading from said facilities, shall be prohibited and signs notifying the public of these prohibitions shall be prominently displayed on site.

SECTION III: **Disclaimer of liability**. The City of Palatka shall advise all who might use the City docking facilities through the posting of appropriate signs that uses of City docking facilities shall be at the risk of the user and that the City does not intend to accept liability or responsibility for damages to property, injuries to persons, or death, caused by or incurred in association with the use of the City's docking facilities.

SECTION IV: **Penalty.** Except as otherwise provided in this Ordinance, any person or entity violating any of the provisions of this Ordinance may be punished as provided in Section 1-10 of the Municipal Code of the City of Palatka.

SECTION V: **Severability.** If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

SECTION VI: **Codification.** A copy of this Ordinance shall be furnished to the municipal code corporation for insertion in the Code of Ordinances for the City of Palatka.

SECTION VII: **Effective date.** This Ordinance shall become effective immediately upon its passage.

PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida, this **22nd day of January, 2009.**

CITY OF PALATKA

By: Ralph N. Flagg
Its MAYOR

ATTEST:

Betty J. Driggers
CITY CLERK

APPROVED AS TO CONTENT AND CORRECTNESS:

CITY ATTORNEY

ATTACHMENT A

No fees to be assessed.