

CHAPTER X - MOORING AND ABANDONED BOATS; VIOLATIONS

Sec. X-1. Purpose.

The purpose of this article is:

Intended to address mooring buoys, river use, law enforcement, and abandoned vessels in a manner consistent with state law, including but not necessarily limited to Title 50 of the South Carolina Code of Laws, which shall govern all activity and matters related to watercraft on the waters, and the shores, and banks of the May River, New River and all estuaries as identified herein, located within the jurisdictional limits of the Town of Bluffton.

To ensure that vessel owners are responsibly using the town's waterways without causing undue environmental harm, creating hazardous conditions, or leaving derelict and abandoned vessels in the waterways;

To prevent environmental harm of spilled fuel, human waste, or other pollutants that can be associated with derelict or live aboard vessels not properly pumped or maintained;

To protect human life and navigation hazards associated with over-crowded waterways, haphazardly moored vessels, or sunken vessels, particularly near public boat landings and other crowded areas;

To protect, preserve, restore, and enhance the town's natural waterways and marshes;

To prevent damage to public docks and boat landings, and private docks and marinas through improperly moored or listing vessels; and

To prevent wasteful tax expenditures for the cost of removing sunken and abandoned vessels.

Sec. X-2. Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Abandoned boats (abandon or abandoned)* means any watercraft that has been moored, stranded, wrecked, sinking, or sunk, and has been left unattended for longer than forty-five (45) days. A watercraft is not "abandoned" if it is legally moored on private property. (S.C. Code § 50-21-10.)

*Abandon or abandoning* means the act of anchoring, mooring, stranding, wrecking, sinking, or leaving a watercraft unattended beyond the proscribed period and/or in an unlawful manner such that has become a nuisance or danger.

*Boat or vessel* means every classification of watercraft used or capable of being used as a means of transportation on the water, except a seaplane or a fishing raft. (S.C. Code § 50-21-10)

*Department* means the South Carolina Department of Natural Resources.

*Derelict vessel* means a vessel that has been left unattended or is in significant disrepair, such that the condition may affect the seaworthiness of the vessel or affect the safety of the public or the environment.

*Law enforcement* means the Department of Natural Resources, Bluffton Police Department and Beaufort County Sheriff's Department.

*Operator* means every person who steers or is in control of the use, navigation, movement, anchoring, mooring, or employment of a vessel.

*Owner* means a person, other than a lien holder, who claims lawful possession of a vessel or outboard motor by virtue of legal title, registration, or equitable interest in it which entitles him to possession.

*Person* means an individual, a partnership, a firm, a corporation, an association, or other legal entity. (S.C. Code § 50-21-10.)

*Unattended* as it pertains to watercraft, means there is no observable change in circumstances or evidence of being looked after or maintained in any way and no substantial change in location.

*Use* means operate, navigate, or employ.

*Vessel* means every classification of watercraft, other than a seaplane regulated by the federal government.

*Waters of the Town* means waters within the jurisdictional limits of Town of Bluffton not including private lakes or ponds.

*Waters of the state* means waters within the territorial limits of the state but not including private lakes or ponds.

*Watercraft* means anything used or capable of being used as a means of transportation on the water but does not include: A seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, rafts, and similar devices or anything that does not meet construction or operation requirements of state or federal government for watercraft.

#### Sec. X-3. Mooring prohibited.

Within the jurisdictional limits of the waters of the town of Bluffton, mooring or anchoring is prohibited within one mile of any public boat landing or within one hundred (100) feet of any other legally anchored vessel, any private, properly permitted mooring, or any private, properly permitted dock or marina without the written permission of the owner.

Sec. 29-4. Derelict vessels prohibited.

- (a) It shall be unlawful to anchor, moor or ground on the public land or waters of the Town of Bluffton, or on private property without permission of the property owner, any derelict vessel. Indicators that a vessel is derelict include, but are not limited to, the following:
1. Improper, non-working, or no anchor light;
  2. Vessel is neglected, or substantially dismantled, or improperly maintained, or is not able to be used for navigation as intended;
  3. Vessel does not comply with current registration requirements;
  4. Vessel is barnacle-laden;
  5. Vessel interior is exposed to the elements (rain, waves, and the like);
  6. Vessel is listing;
  7. Vessel is aground;
  8. Vessel is in danger of breaking or dragging its mooring;
  9. Vessel is sinking; or
  10. Vessel is abandoned.
- (b) Pursuant to S.C. Code § 50-21-190 it is unlawful to abandon a watercraft or outboard motor on the public land or waters of this state or the town or on private property without permission of the property owner. This section does not apply to persons who abandon a watercraft in an emergency for the safety of the person onboard; however, after the emergency is over, the owner and operator of the abandoned watercraft shall make a bona fide attempt to recover the watercraft.

Sec. X-5. Anchoring prohibited.

- (a) No vessel shall be anchored within the Corps of Engineers established channel. Boats anchored in these areas at the date of the passage of this article shall have sixty (60) days to comply.
- (b) This section does not apply to vessels attached to permanent piers or docks.

Sec. X-6. Seizure and disposal of abandoned vessels.

Seizure of certain watercraft; notice of seizure and of time for removal; forfeiture and disposal. Pursuant to the police powers of local governments for the promotion of the public health, safety and welfare and general convenience as granted by state legislation, including the state home rule act, construed in accordance with provisions of the South Carolina State Constitution and the South Carolina Code of Laws, the town shall be authorized to seize a stolen, abandoned, junked, adrift, destroyed, or salvaged watercraft or outboard motor, a watercraft that is no longer functional for its primary purpose, a watercraft or outboard motor for which the true owner is not determined, or a watercraft or outboard motor on which the manufacturer's or assigned serial number has been destroyed, removed, covered, altered, or defaced, such watercraft may be located on public property or on private property if impermissibly located on such private shores and banks, or which constitute a nuisance, a hazard to navigation, or threatens sensitive environments, and/or which is not within an anchorage area approved by the U.S. Coast Guard, U.S. Army Corps of Engineers, or the South Carolina Department of Health and Environmental Control and such watercraft or outboard motor is deemed to be a nuisance or a hazard to the citizens of the Town of Bluffton.

The Town may post a notice to seize on a clearly visible location of the watercraft while it is in its current location. The posting of a notice to seize on the watercraft or outboard motor shall constitute notice to a person claiming an interest in it, and the person shall immediately remove the vessel. If the vessel is not removed by the owner within sixty (60) days of the posting of the notice to seize, the town may then effect seizure of the vessel by removing it no sooner than sixty (60) days after the posting of the notice to seize. If after reasonable efforts, the town determines the owner of a noticed watercraft or outboard motor and related marine equipment, it shall notify the owner by certified mail of the procedure, the location, and the fact that he has not less than thirty (30) days from the date of the certified letter to remove the vessel or equipment from the unlawful location or the town's designated storage facility as applicable. If a security interest has been perfected, the town must notify the lien holder by certified mail allowing thirty (30) days to respond.

The failure of the owner and all lienholders to exercise their right to reclaim the watercraft within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the watercraft and is considered as their consent to the disposition of the watercraft by the town.

The town may retain the property for official use or transfer the property to another public entity for official use, sell the property at public auction, or, destroy or otherwise lawfully dispose of the watercraft or outboard motor at the discretion of the town. If proceeds are derived from a sale, they must be deposited in the boating operating fund of the town for administration of the program.

The town shall keep a record of noticed vessels and the circumstances under which found, impounded, stored, sold, or destroyed, or removed by another party.

Sec. X-7. Policy and procedure.

In order to implement the provisions of this chapter, the town manager or designee is authorized to establish written policies and procedures consistent with the provisions herein and Title 50 of the South Carolina Code of Laws.

Sec. X-8. Notice to state.

In the event that the town is unable to ascertain the identity of the owner, or for any other reason is unable to give notice to a party with interest in the vessel or watercraft other than the posting of notice, and in the event the vessel or watercraft is not returned to the owner, the town shall send or cause to be sent a written report of such removal and disposal to the South Carolina Department of Natural Resources.

Sec. X-9. Violation; misdemeanor.

Any person who violates any section of this article shall be guilty of a misdemeanor and shall be punishable under section X of this Code.

In addition to any other penalties allowed by federal, state or local law, a person violating these provisions are guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars

(\$1,000.00) nor more than five thousand dollars (\$5,000.00) or imprisoned up to thirty (30) days, or both. In addition, the owner must remove the abandoned watercraft within fourteen (14) days of conviction. The town municipal court is vested with jurisdiction for cases arising under this section.

Sec. X-10. Severability.

If any section, subsection, clause or provision of this article shall be deemed unconstitutional or found to conflict with a provision of South Carolina law, or be otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby and shall remain in full force and effect.

Sec. X-11. Conflicts.

If a section, subsection, clause, or provision of this article shall conflict with the section, subsection, clause, or provision of a preceding ordinance of the Town of Bluffton, then the preceding section, subsection or part shall be deemed repealed and no longer in effect.

Sec. X-12. Administration and enforcement.

- (a) *Administration.* The administration and enforcement of the provisions of this article shall be vested in the Town of Bluffton, law enforcement. Law enforcement shall have the authority to board any vessel subject to the provisions of this article or to any applicable rule or regulation for the purpose of inspection or determining compliance and are empowered to issue a summons for appearance in court or make arrest for violations of this article or the rules and regulations prescribed thereunder.
- (b) When necessary, the Bluffton Police Department and law enforcement may act, or may join in action with other agencies, to declare a vessel "abandoned" or "derelict," or to determine and abate any unsafe or environmentally hazardous conditions, by towing, relocating, removing any vessel, or taking any other action reasonably necessary.
- (c) Law enforcement shall post conspicuous notice on any vessels that are in violation of permit conditions, or that have an expired or revoked permit. Law enforcement shall then continue to monitor the violating vessel until ten (10) days have elapsed from the date of the posting. If the person in control of the vessel returns, or contacts law enforcement or the harbormaster and abates the violation within that time, no further actions, other than payment of accrued fees need to be taken.
- (d) If the owner of any unattended vessel anchored, moored, docked, or stored in town waters fails to respond to notices or pay fines and fees as required by this section for more than ten (10) days from the posting, the vessel may be taken into custody by the Bluffton Police Department and stored in a safe place of storage.
- (e) The owner shall be responsible for the costs of towing, storage, removal, and salvage of the vessel. Any vessel towed, removed, relocated or impounded shall be subject to a lien for associated costs. The owner of the vessel may only redeem the vessel from the designated storage area upon payment

of costs and fees. The town or its contractor is not liable for damages associated with towing or enforcement.

- (f) If a vessel is seized and towed, law enforcement shall report the vessel to the department of natural resources for owner notification. If the vessel is deemed abandoned by the department of natural resources, it shall be eligible for removal in accordance with South Carolina state law.
- (g) This section does not limit any other rights granted to the town or law enforcement by federal, state or local law.

Sec. X-13. Penalty.

For each day that a violation of this section is not abated, there will be a five hundred dollars (\$500.00) per day fine. The imposition of this fine shall not be suspended.

In addition to any other penalties allowed by federal, state or local law, a person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00) or imprisoned up to thirty (30) days, or both. In addition, the owner must remove the abandoned watercraft within fourteen (14) days of conviction. The town municipal court is vested with jurisdiction for cases arising under this section.