

ORDINANCE No. 2025-_____

**AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES FOR
THE TOWN OF BLUFFTON TO INCLUDE ARTICLE III TO ESTABLISH
PROCEDURES, REQUIREMENTS, AND PENALTIES FOR DERELICT, ABANDONED,
AND SUNKEN VESSELS AND OTHER MATTERS RELATED THERETO**

WHEREAS, the Town of Bluffton (“*Town*”) desires to continue to take all necessary and proper actions to protect the general safety, welfare, health and properties of the citizens of the Town while on the waterways within the Town’s jurisdiction; and,

WHEREAS, effective May 8, 2025, the South Carolina Code of Laws Article 2 to Chapter 21, Title 50 (“*Title 50*”) was amended to establish procedures, requirements and penalties related to derelict, abandoned, and sunken vessels in the waterways of the State of South Carolina; and,

WHEREAS, the waterways in and around the Town have become occupied by abandoned, derelict and sunken vessels which not only diminish the esthetic prestige of the waterways but, create serious safety hazards to boaters in the area; and

WHEREAS, the Town desires to resolve the problems described herein by amending the Code of Ordinances for the Town of Bluffton (“*Town Code*”) to coincide with Title 50 to establish the procedures, requirements and penalties related to derelict, abandoned, and sunken vessels located in the waterways within the Town’s jurisdiction; and authorize the Town Manager to remove the aforementioned vessels from the waterways in compliance with the Title 50; and,

WHEREAS, for the reasons stated above, the Town Council desires to amend Chapter 13 of the Town Code to establish the procedures, requirements and penalties related to derelict, abandoned, and sunken vessels within the Town’s jurisdiction and other matters related thereto, and as shown in “Exhibit A” attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, AS FOLLOWS:

1. ***Amendment.*** That Chapter 13 of the Town Code is amended to establish Article III as shown in “Exhibit A”, attached hereto and incorporated herein by reference.
2. ***Severability.*** If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
3. ***Repeal.*** All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this Ordinance full force and effect.
4. ***Effective Date.*** This Ordinance shall be effective immediately upon its adoption by the Town Council of the Town of Bluffton, South Carolina.

DONE, RATIFIED and ENACTED this ____ day of _____, 2025.

This Ordinance was read and passed at first reading on _____, _____, 2025.

Larry C. Toomer, *Mayor*
Town of Bluffton, South Carolina

Marcia Hunter, *Town Clerk*
Town of Bluffton, South Carolina

This Ordinance was read and passed at Second reading on _____, _____, 2025.

Larry C. Toomer, *Mayor*
Town of Bluffton, South Carolina

Marcia Hunter, *Town Clerk*
Town of Bluffton, South Carolina

EXHIBIT A

Chapter 13 – Public Property**Article III – Abandoned and Derelict Vessels****Sec. 13-60. Definitions.**

For the purposes of this Article the following terms, phrases, words, and their derivations shall have the meaning given herein. If a term, phrase, or word is not provided a meaning in this Section, then the meaning shall first be defined by S.C Code Section 50-21-10, then by its ordinary meaning.

- (1) *Abandoned Vessel* means a vessel that:
 - (a) is wrecked or junked;
 - (b) does not have a visible identifier; and
 - (c) remains on the waters of the State, or on public property adjacent thereto, for at least ten consecutive days from the day an abandoned vessel notice is posted on the vessel.
- (2) *Boat* means a Vessel.
- (3) *Department* means the South Carolina Department of Natural Resources.
- (4) *Derelict Vessel* means a vessel that:
 - (a) is wrecked or junked;
 - (b) has a visible identifier; and
 - (c) remains on the waters of the State, or on public property adjacent thereto, for at least twenty-one consecutive days from the day a derelict vessel notice is posted on the vessel.
- (5) *Junked* means substantially stripped of vessel components, or spaces on the vessel that are designed to be enclosed are open to the elements.
- (6) *Owner* means a person, other than a lienholder, who claims lawful possession of a vessel or outboard motor by virtue of legal title or equitable interest in it which entitled him to possession.
- (7) *Person* means an individual, a partnership, a firm, a corporation, an association, or other legal entity.
- (8) *Registered Owner* means a person listed as the owner on a state's vessel registration records or on a United States Coast Guard certificate of documentation.
- (9) *Responsible Party* means a person who has the rights to the possession and use of a vessel.
- (10) *Vessel* means every description of watercraft, other than a seaplane regulated by the federal government, used or capable of being used as a means of transportation on water.
- (11) *Visible Identifier* means:
 - (a) a hull identification number;
 - (b) a vessel registration number of this State or another state; or
 - (c) a vessel name and home port.
- (12) *Waterway* means any waters, waterway, harbors, lake, river, tributary, canal, lagoon or connecting waters within the boundaries of the Town.
- (13) *Wrecked* means listing due to water intake or hull damage, or aground and cannot be extracted without mechanical assistance.

Sec. 13-61. – Authority and Scope.

- (1) The provisions of this Article and other applicable laws of this State, including but not limited to, Title 50 of the South Carolina Code of Laws, shall govern all activity and matters related to Abandoned and Derelict Vessels of the waters of the Town and the State that are located within the jurisdictional limits of the Town.
- (2) *Authority and Enforcement.* Any person employed or elected by the Town or the State, whose duty it is to preserve the peace, or to make arrests or to enforce the law including, but not limited to, members of the Sheriff's department, state police, enforcement officers, or other qualified persons, upon

recommendation of the appropriate agency, may be empowered to enforce the provisions of this Article. The Department shall be the agency primarily responsible for enforcement of all laws pertaining to boating. Any such person is empowered to issue a citation for appearance in court or before a magistrate or make arrest for violations of this Article, of the regulations prescribed under it, or as provided for in Title 50 of the South Carolina Code.

- (3) *Jurisdiction.* The corporate limits of the Town bordering on the high-water mark of a navigable body of water, other than the Atlantic Ocean, are extended to include all that area lying between the high-water mark and the low-water mark. These areas are subject to all of the ordinances and regulations that may be applicable to the areas lying within the corporate limits of the Town. Pursuant to the authority established in this Article, the corporate limits and jurisdiction of the Town bordering on the high-water mark of a navigable body of water are extended outward by one mile for the purpose of enforcing this Article.

The Town shall have the right to regulate the use of all waterways within the Town limits and the conduct of all persons using same, consistent with and not in conflict with federal or state laws and regulations. All ordinances of the Town regulating the conduct of persons on land shall apply to persons using waterways and boat landings, insofar as same are applicable and are not in conflict with this Article or applicable South Carolina State Code of Laws.

- (4) *Authority to Remove.* Once the requirements established in this Article and by Title 50 of the South Carolina Code to declare a vessel derelict or abandoned have been completed then the Town Manager, or their designee, may have the Derelict Vessel or Abandoned Vessel removed from the Town's waterways.

Sec. 13-62. Derelict and Abandoned Vessels Identifying and Notice.

- (1) The Department, or a local law enforcement agency with jurisdiction, upon locating a vessel that is wrecked or junked, must determine whether the vessel has a visible identifier.
- (a) If the vessel has a visible identifier, then the Department or local law enforcement agency must:
 - i. post a Derelict Vessel notice that contains the information provided in subsection (2);
 - ii. take reasonable steps within twenty-four (24) hours of the posting of the notice to identify the registered owner, and if identified, must provide written notice to the registered owner's last known address, and notice by telephone or e-mail, if known to the Department or law enforcement. The notice must include, but is not limited to, the information provided on the Derelict Vessel notice and a brief description of the vessel's location; and,
 - iii. submit a Derelict Vessel report within twenty-four hours of the posting of the notice using the application or website maintained by the South Carolina Department of Environmental Services under Section 50-21-290 of the South Carolina Code of Laws.
 - (b) If the vessel does not have a Visible Identifier, then the Department or local law enforcement agency must:
 - i. post an Abandoned Vessel notice that contains the information provided in subsection (3); and
 - ii. submit an abandoned vessel report within twenty-four hours of the posting of the notice using the application or website maintained by the South Carolina Department of Environmental Services under S.C. Code Section 50-21-290.

- (2) A Derelict Vessel notice posted in accordance with this Section must provide at least:
- (a) a citation to this Article;
 - (b) the date the notice is posted;
 - (c) a statement that the vessel must be removed within twenty-one (21) days from the date the notice is posted, or it will be declared a Derelict Vessel and be subject to removal and disposal by any person; and
 - (d) the date the vessel will be declared a Derelict Vessel.
- (3) An Abandoned Vessel notice posted in accordance with this Section must provide at least:
- (a) a citation to this Article;
 - (b) the date the notice is posted;
 - (c) a statement that the vessel must be removed within ten (10) days from the date the notice is posted, or it will be declared an Abandoned Vessel and be subject to removal and disposal by any person; and
 - (d) the date the vessel will be declared an Abandoned Vessel.
- (4) A vessel that is listing or taking on water at the time a notice is to be posted on the vessel may be relocated by the Department or a local law enforcement agency without liability to a responsible party.

Sec. 13-63. Removal Plan of Responsible Party.

The Department, or local law enforcement, must remove a Derelict Vessel notice if within fourteen (14) days of the posting of the notice a Responsible Party provides a bona fide plan of removal to the Department or local law enforcement. If the vessel remains wrecked or junked thirty (30) days from the date the notice was posted, then another derelict vessel notice must be posted on the vessel, and no additional bona fide plan of removal may be submitted.

Sec. 13-64. Removal of Derelict or Abandoned Vessel.

- (1) An Abandoned Vessel or a Derelict Vessel is subject to removal at any time by any person without liability to a Responsible Party. A person who removes and disposes of an Abandoned Vessel or a Derelict Vessel may commence a civil action against a Responsible Party within three (3) years of the removal and disposal to recover:
- (a) the cost of the removal and disposal; and
 - (b) the attorney's fees and court costs incurred in bringing the action.
- (2) The civil action provided in this Section is in addition to and supplemental of any rights of salvage that may be available under maritime law.

Sec. 13-65. Sunken Vessel.

- (1) A sunken vessel in the waters of the State must be removed by a Responsible Party:
- (a) before the date the vessel will be declared a Derelict Vessel or an Abandoned Vessel, as appropriate, if the vessel received an Abandoned Vessel notice or a Derelict Vessel notice prior to sinking; or
 - (b) within twenty-one (21) days of the day the vessel sunk, or within forty-five (45) days if a bona fide plan of removal is provided to the Department or local law enforcement within twenty-one (21) days of the day the vessel sunk, if the vessel did not receive an Abandoned Vessel notice or a Derelict Vessel notice prior to sinking.
- (2) A sunken vessel that remains in the waters of the State or Town after the applicable time period for its removal by a Responsible Party expires is subject to removal at any time by any person without liability to a Responsible Party. A person who removes and disposes of a sunken vessel after the expiration of the applicable time period may commence a civil action against a Responsible Party within three (3) years of the removal and disposal to recover:
- (a) the cost of the removal and disposal; and

- (b) the attorney's fees and court costs incurred in bringing the action.
- (3) The civil action provided in this section is in addition to and supplemental of any rights of salvage that may be available under maritime law.
- (4) The provisions of this section do not apply to a vessel that is submerged archaeological historic property, as defined in Section 54-7-620.

Sec. 13-66. Violations and Penalty.

- (1) It is unlawful for a person to cause or allow a vessel to become an Abandoned Vessel or a Derelict Vessel. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars, imprisoned for not more than sixty days, or both. In addition, the person is liable for all costs arising from the removal and disposal of the vessel from the waters of the State, or public property adjacent thereto.
- (2) It is unlawful for a person to intentionally or recklessly cause a vessel to sink on the waters of the State. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars, imprisoned for not more than sixty days, or both. In addition, the person is liable for all costs arising from the removal and disposal of the vessel from the waters of the State. This subsection does not apply to a person who sinks a vessel pursuant to the Town or Department's artificial reef program.
- (3) Fines collected under this section must be used by the Department or Town for the removal and disposal of Abandoned Vessels, Derelict Vessels, and sunken vessels.
- (4) The Magistrate Court is vested with jurisdiction for cases arising under this Article.