

**NEW HANOVER COUNTY BOARD OF COMMISSIONERS**  
**REQUEST FOR BOARD ACTION**  
**MEETING DATE: 6/17/2024**

Consent

**DEPARTMENT:** County Attorney      **PRESENTER(S):** Chief Jonathan Hart, Chief Deputy Sheriff

**CONTACT(S):** Chief Jonathan Hart, Chief Deputy Sheriff; Lisa Wurtzbacher, Assistant County Manager; Karen Richards, Deputy County Attorney

**SUBJECT:**

**Second Reading: Approval of New Hanover County Abandoned Vessel Ordinance**

**BRIEF SUMMARY:**

Currently, the authority for removing abandoned vessels from bodies of water in the unincorporated area of the County has been with the NC Wildlife Resources Commission. Pursuant to North Carolina General Statute (NCGS) 153A-132, Removal and Disposal of Abandoned and Junked Motor Vehicles; Abandoned Vessels, a county may by ordinance prohibit the abandonment of vessels in navigable waters within the county's ordinance-making jurisdiction.

Staff have drafted the attached ordinance which allows the New Hanover County Sheriff's Office (Sheriff's Office) to take appropriate actions to address abandoned vessels in the unincorporated areas of the county, in accordance with NCGS 153A-132. The ordinance defines what constitutes an abandoned vessel, outlines procedures for notifying the owner and, if necessary, removing the vessel. It allows owners to notify the County within 10 days of the notice of the plan to address the issue(s) specified in the notice, and 30 days to rectify the conditions or remove the vessel.

Additionally, the ordinance provides authority to the Sheriff's Office to remove or relocate the vessel, with all associated costs of towing, relocation, removal and storage or disposal and area restoration falling to the owner. Penalties for violating the ordinance are included such as a class 3 misdemeanor with a \$100 per day fine for each offense, and civil penalties of \$500 per offense.

The ordinance permits the Sheriff's Office to take these actions only within the unincorporated areas of the County. It will not prevent the NC Wildlife Resources Commission from continuing to take necessary actions. Other jurisdictions within the County would need to adopt a similar ordinance and also delegate their authority to the Sheriff's Office in order for the department to address any abandoned vessels in their jurisdiction. Additionally, letters were sent on behalf of New Hanover County to the other local municipalities sharing that the abandoned vessel ordinance was pending Board of Commissioner approval in June and requesting once adopted, the other municipalities adopt their own resolutions. This coordinated approach ensures that the adopted ordinance in New Hanover County is clearly defined and widely shared.

NCGS 153A-123(b) requires any ordinances imposing a criminal penalty only be enacted after a second reading and adoption of said ordinance. The first reading of this ordinance was held at the May 20, 2024 Board of Commissioners meeting. Each municipality within New Hanover County has the option to adopt its own ordinance and request the County's assistance, adopt this ordinance by resolution per NCGS 153A-122(b), or develop their own removal process.

**STRATEGIC PLAN ALIGNMENT:**

- Community Safety & Well-being
  - The community supports a life that mitigates health and safety risks
    - Effectively and efficiently respond to public health and safety demands.
- Good Governance
  - Effective County Management
    - Increase transparency and awareness about county actions

**RECOMMENDED MOTION AND REQUESTED ACTIONS:**

Adopt the ordinance.

**ATTACHMENTS:**

New Hanover County Abandoned Vessel Ordinance

City of Wilmington

Town of Wrightsville Beach

Town of Carolina Beach

Town of Kure Beach

**COUNTY MANAGER'S COMMENTS AND RECOMMENDATIONS: (only Manager)**

Recommend adoption.

**COMMISSIONERS' ACTIONS:**

Adopted 5-0.

**NEW HANOVER COUNTY BOARD OF COMMISSIONERS**

**ORDINANCE**

**AMENDING NEW HANOVER COUNTY CODE CHAPTER 23 ENVIRONMENT**

The Board of County Commissioners of New Hanover County, North Carolina does hereby ordain and enact that the New Hanover County Code of Ordinances, Chapter 23, Environment, be amended as follows:

- I. Add Article X, Abandoned Maritime Vessel(s) to include the following new sections:

**Section 23-514. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Abandoned vessel:**

- (a) is a maritime vessel that is in danger of sinking, has sunk, is resting on the bottom, or is located such that it is a hazard to navigation or is an immediate danger to other vessels.
- (b) is a maritime vessel has been left unattended and is in significant disrepair, neglected, dismantlement, or noncompliance with current registration requirements, such that the condition may affect the seaworthiness of the vessel or affect the safety of the public or the environment.

**Section 23-515. Abandoned vessels prohibited.**

- (a) It shall be unlawful to anchor, moor or ground on the public land or waters of the county or on private property without permission of the property owner, any abandoned vessel.
- (b) Upon identifying an abandoned vessel, the sheriff shall post a notice on board the vessel, if above water, and shall attempt to notify the owner by certified mail or personal delivery of notice. If personal service is not obtained after an attempt to do so, the posting of the vessel shall be deemed full and sufficient personal and in rem service hereunder. The notice shall:
  - (1) Describe the vessel and location of the vessel, however the notice posted aboard the vessel need not include description and location.
  - (2) Identify the condition(s) identified that must be corrected if repairable.
  - (3) Inform the owner that a written plan for correcting identified conditions, or removal of the vessel and restoration of the affected surrounding environmental area must be submitted within ten (10) days of the notice is served.
  - (4) Inform the owner that the identified conditions must be corrected, or the vessel must be removed from the waters or public lands and the affected surrounding environmental area restored, within thirty (30) days of the date the notice posted aboard the vessel.
  - (5) Inform the owner that failure to meet either the ten-day or thirty-day deadlines will result in the vessel being deemed abandoned, subject the owner to civil/criminal penalties, and that all costs associated with removal and disposition of the vessel and restoration of the affected surrounding environmental areas will be the responsibility of the owner.
- (c) Failure of the owner to correct the dangerous condition or remove the vessel from the waters or public lands of the county within thirty (30) days, after notice, shall cause the vessel to be defined as an abandoned vessel.
- (d) Any abandoned vessel located on or below any navigable waters, or beaches, or grounded adjacent thereto may be removed or relocated and impounded by the sheriff.
- (e) The owner shall be responsible for all costs of towing, relocation, removal and storage of the vessel or disposal and restoration of the area surrounding the vessel, including costs owed to a third party, and costs incurred by the county or the sheriff. Any vessel towed, removed, relocated, or impounded shall be subject to a lien pursuant to North Carolina General Statute 44A.

**Section 23-516. Exceptions.**

- (a) Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have been in place and unclaimed for more than ten (10) years shall not be considered abandoned vessels unless approved by the North Carolina Department of Cultural Resources, which is the legal custodian of these properties pursuant to North Carolina General Statutes 121-22 and 121-23.
- (b) Any vessel within an enclosed building boathouse, or upon the premises of a business enterprise being operated in a lawful place and manner if the vessel is necessary to the operation of the enterprise.

**Section 23-517. Enforcement responsibility and authority.**

- (a) The sheriff of the county, or any law enforcement officer with territorial jurisdiction, is authorized and empowered to enforce this article.
- (b) The sheriff is authorized to board any vessel as required to enforce the provisions of this article, or any federal or state law, and such boarding in the performance of official duties shall not constitute a trespass.
- (c) The sheriff is authorized to seize, tow, remove or relocate from the public waters, and to store or dock the vessel in a safe place that, as a result of arresting the operator, or taking any enforcement action that would render the vessel unattended, or without an operator of suitable age, discretion and competence.
- (d) The county or the sheriff may use staff, equipment, and material under its control or provided by any cooperating federal, state, or local government or agency; may authorize or contract with any private agent or contractor it deems appropriate; or may authorize or contract with any federal, state, or local government or agency for the removal, storage, or disposal of an abandoned vessel and restoration of the affected area.
- (e) The owner shall be responsible for all costs of towing, relocation, removal and storage or disposal of the vessel, including costs owed to a third party, and costs incurred by the county or the sheriff.

**Section 23-518. Penalties for violation.**

- (a) *Criminal penalties.*
  - (1) A violation under this article shall be deemed a class 3 misdemeanor punishable to the extent provided in North Carolina General Statute 14-4 and shall carry a fine of One Hundred Dollars (\$100.00) per offense. A violation that either reoccurs or continues without cessation twenty-four (24) hours after a person has been criminally charged, either by arrest or citation, shall constitute a separate offense.
  - (2) A conviction under this section does not bar the assessment and collection of the civil remedies provided in this article.
- (b) *Civil remedies.* In addition to, or in lieu of any criminal penalties set forth herein, any person, firm or corporation violating any provisions of this article shall be subject to civil penalties as follows:
  - (1) A violation hereunder shall be subject to a civil remedy in the amount of Five Hundred Dollars (\$500.00) per offense. A violation that either reoccurs or continues without cessation after a twenty-four (24) hour period shall constitute a separate offense.
  - (2) Civil remedies shall be used in the recovery of the costs expended in enforcing this article.
- (c) *Other remedies.* Any other remedies available pursuant to North Carolina General Statute 153A-123, Enforcement of Ordinances.

**Section 23-519. Appeal.**

- (a) An abandoned vessel designation, abatement removal, property disposition and civil penalty, as applicable, may be appealed to the county manager or his designee within fifteen (15) calendar days of the occurrence of the challenged determination or action.
- (b) Any decision of the county manager, or his designee, may be appealed to the District Court of New Hanover County within thirty (30) days, provided the matter in controversy has first been timely appealed to the county manager.

**Section 23-520. Disposition/disposal of abandoned vessels.**

- (a) An abandoned vessel, including all cargo, tackle, and equipment, seized pursuant to this article, which remains unclaimed after notice, shall be deemed forfeited, as set forth in North Carolina General Statute 14-399(g).
- (b) A vessel having a value less than Five Hundred Dollars (\$500.00) may be disposed of at any suitable solid waste facility.
- (c) A vessel having a value of Five Hundred Dollars (\$500.00) or greater shall be disposed as provided in North Carolina General Statute 44A with the proceeds paying for the towing, removal, and storage charges, accrued fines, and environmental restoration costs. The remaining proceeds, if any, shall be deposited into the general fund of the county and designated for use to abate, or remove abandoned vessels and restore environmental damage resulting from abandoned vessels.
- (d) Any vessel, cargo, tackle, or equipment remaining unsold after being offered at public sale, may be disposed at any suitable solid waste facility.
- (e) Within ten (10) days following the disposal or public sale of any vessel previously registered in any state or meeting the requirements for registration prior to operation in North Carolina, the sheriff shall provide notice to the North Carolina Wildlife Resources Commission, and the agency responsible for registration in the state of any previously registered vessel. The contents of the notice, shall include, if available:
  - (1) Vessel registration number;
  - (2) Manufacturer, model, year;
  - (3) NC title number (if applicable);
  - (4) Hull identification number;
  - (5) A description of the reason for being disposed or sold as an abandoned vessel;
  - (6) Type of disposition and location (e.g. public sale – New Hanover County Sheriff’s Office, or Discarded – New Hanover County Landfill);
  - (7) Full name and address of the purchaser (if applicable);
  - (8) Date of sale and sale price (if applicable)

II. Except as specifically above amended Chapter 23, Environment, shall remain unaltered and in full force and effect.

ADOPTED this the \_\_\_\_ day of \_\_\_\_ 2024.

NEW HANOVER COUNTY

\_\_\_\_\_  
William E. Rivenbark, Chair

ATTEST:

\_\_\_\_\_  
Kymberleigh G. Crowell, Clerk to the Board



# NEW HANOVER COUNTY

## COUNTY MANAGER'S OFFICE

230 Government Center Drive, Suite 195, Wilmington, NC 28403

P: (910) 798-7184 | F: (910) 798-7277 | NHCgov.com

**Chris Coudriet**, County Manager

**Tufanna Bradley**, Assistant County Manager | **Lisa Wurtzbacher**, Assistant County Manager

**Jessica Loeper**, Assistant County Manager

May 28, 2024

Hon. Bill Saffo, Mayor  
City of Wilmington  
P.O. Box 1810  
Wilmington, NC 28402

Dear Mayor Saffo,

The New Hanover County Board of Commissioners is in the process of approving an ordinance authorizing the Sheriff's Office to identify and, when needed, remove abandoned vessels from waterways in the unincorporated areas of the county.

The Board has taken an initial vote on the ordinance and is holding a required second reading and taking a vote on June 17 to fully authorize the ordinance.

The Board asked me to reach out to you to request that the Wilmington City Council authorize the Sheriff's Office to remedy abandoned vessels within city limits. We hope that centralizing this service within the Sheriff's Office will provide for seamless response and reduced customer confusion while reporting abandoned vessels.

For your convenience, a draft of a resolution will be sent to you upon final passage of the ordinance. Because this resolution would have the same effect of a municipality adopting an ordinance that contains criminal penalties, per General Statute 160A-175(b), it would need two readings.

I appreciate your consideration of this request. If you have any questions, please do not hesitate to contact my office.

Chris Coudriet  
County Manager

cc: Tony Caudle, City Manager



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**Jessica Loeper**, Assistant County Manager

May 28, 2024

Darryl Mills, Mayor  
Town of Wrightsville Beach  
321 Causeway Drive  
P.O. Box 626  
Wrightsville Beach, NC 28480

Dear Mayor Mills,

The New Hanover County Board of Commissioners is in the process of approving an ordinance authorizing the Sheriff's Office to identify and, when needed, remove abandoned vessels from waterways in the unincorporated areas of the county.

The Board has taken an initial vote on the ordinance and is holding a required second reading and taking a vote on June 17 to fully authorize the ordinance.

The Board asked me to reach out to you to request that the town of Wrightsville Beach Board of Aldermen authorize the Sheriff's Office to remedy abandoned vessels within the town limits. We hope that centralizing this service within the Sheriff's Office will provide for seamless response and reduced customer confusion while reporting abandoned vessels.

For your convenience, a draft of a resolution will be sent to you upon final passage of the ordinance. Because this resolution would have the same effect of a municipality adopting an ordinance that contains criminal penalties, per General Statute 160A-175(b), it would need two readings.

I appreciate your consideration of this request. If you have any questions, please do not hesitate to contact my office.

Chris Coudriet  
County Manager

cc: Tony Wilson, Interim Town Manager



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**Jessica Loeper**, Assistant County Manager

May 28, 2024

Lynn Barbee, Mayor  
Town of Carolina Beach  
1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428

Dear Mayor Barbee,

The New Hanover County Board of Commissioners is in the process of approving an ordinance authorizing the Sheriff's Office to identify and, when needed, remove abandoned vessels from waterways in the unincorporated areas of the county.

The Board has taken an initial vote on the ordinance and is holding a required second reading and taking a vote on June 17 to fully authorize the ordinance.

The Board asked me to reach out to you to request that the Carolina Beach Town Council authorize the Sheriff's Office to remedy abandoned vessels within the town limits. We hope that centralizing this service within the Sheriff's Office will provide for seamless response and reduced customer confusion while reporting abandoned vessels.

For your convenience, a draft of a resolution will be sent to you upon final passage of the ordinance. Because this resolution would have the same effect of a municipality adopting an ordinance that contains criminal penalties, per General Statute 160A-175(b), it would need two readings.

I appreciate your consideration of this request. If you have any questions, please do not hesitate to contact my office.

Chris Coudriet  
County Manager

cc: Bruce Oakley, Town Manager





# NEW HANOVER COUNTY

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**Jessica Loeper**, Assistant County Manager

May 28, 2024

Allen Oliver, Mayor  
Town of Kure Beach  
117 Settlers Lane  
Kuree Beach, NC 28449

Dear Mayor Oliver,

The New Hanover County Board of Commissioners is in the process of approving an ordinance authorizing the Sheriff's Office to identify and, when needed, remove abandoned vessels from waterways in the unincorporated areas of the county.

The Board has taken an initial vote on the ordinance and is holding a required second reading and taking a vote on June 17 to fully authorize the ordinance.

The Board asked me to reach out to you to request that the Kure Beach Town Council authorize the Sheriff's Office to remedy abandoned vessels within the town limits. We hope that centralizing this service within the Sheriff's Office will provide for seamless response and reduced customer confusion while reporting abandoned vessels.

For your convenience, a draft of a resolution will be sent to you upon final passage of the ordinance. Because this resolution would have the same effect of a municipality adopting an ordinance that contains criminal penalties, per General Statute 160A-175(b), it would need two readings.

I appreciate your consideration of this request. If you have any questions, please do not hesitate to contact my office.

Chris Coudriet  
County Manager

cc: Mandy Sanders, Town Clerk