

## CHAPTER 12: VEHICLES AND BOATS

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Statutory reference:

Abandoned vehicle ordinances, see G.S. §§ 160A-303, 160A-303.2

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## ARTICLE I. ABANDONED VEHICLES AND BOATS

### Editor's Note:

This article is derived from an ordinance adopted June 5, 1991. The following statement was included with the ordinance:

"Section 1-7 of Division 1. and Sections 1-3 of Division 3. of this article [ §§ 12-1 - 12-7, 12-30 - 12-32] do not apply when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Such vehicles may be destroyed or sold at private sale (without regard to value) after being held for 48 hours."

## DIVISION 1. ABANDONED/JUNKED MOTOR VEHICLES - GENERALLY

### § 12-1 DEFINITIONS.

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

**ABANDONED MOTOR VEHICLE.** A vehicle that:

- (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on property owned or operated by the town for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days.

**JUNKED MOTOR VEHICLE.** An abandoned motor vehicle which also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five years old and worth less than \$500; or
- (4) Does not display a current license plate.

(Ord. passed 6-5-1991)

§ 12-2 IMMUNITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen motor vehicle for disposing of the vehicle as provided in this article.

(Ord. passed 6-5-1991)

§ 12-3 EXCEPTIONS.

Nothing in the provisions of this article shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(Ord. passed 6-5-1991)

§ 12-4 ABANDONMENT PROHIBITED.

No person shall abandon any vehicle coming under the provisions of this article within the town; and no person shall leave or allow to remain any abandoned, junked or otherwise discarded vehicle on property under his or her control.

(Ord. passed 6-5-1991)

§ 12-5 DUTY OF OWNER.

If a motor vehicle is abandoned on a public street or upon property owned or operated by the municipality, it shall be the duty and responsibility of the owner of such vehicle, after due notice, to cause the removal of such vehicle immediately and pay all costs incidental to such removal.

(Ord. passed 6-5-1991)

§ 12-6 FAILURE OF OWNER TO REMOVE.

Any junked or abandoned motor vehicle located upon any occupied or unoccupied private property within the town which has not been removed after ten days' notice from the town to the owner or occupant, upon being declared a health or safety hazard by the Town Building Inspector, may be removed to a garage or storage area and disposed of, pursuant to the provisions of this article and G.S. § 160A-303 and amendments thereto.

(Ord. passed 6-5-1991)

§ 12-7 REMOVAL AUTHORIZED.

Any junked or abandoned motor vehicle found to be in violation of this article may be removed to a storage garage or area; but no such vehicle shall be removed from private property without the written request of the owner, lessee or occupant of the premises unless the Board of Aldermen or a duly authorized town official or employee has declared it to be a health or safety hazard. The town may require any person requesting the removal of a junked or abandoned motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.

(Ord. passed 6-5-1991)

§ 12-8 NOTICE OF REMOVAL.

When any junked or abandoned motor vehicle is removed under the provisions of this article, the town shall give written notice of the removal to the registered owner at his or her last known address according to the latest registration certificate or certificate of title on file with the Department of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that can be made of the vehicle under this article. Notice need not be given to the registered owner of the vehicle when it does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.

(Ord. passed 6-5-1991)

§ 12-9 REDEMPTION.

The owner of any vehicle removed from property pursuant to the provisions of this article may regain possession of the vehicle by paying to the town all reasonable costs incidental to the removal and storage.

(Ord. passed 6-5-1991)

§§ 12-10 – 12-19 RESERVED.

DIVISION 2. SALE, DISPOSAL OF ABANDONED VEHICLES

§ 12-20 AUTHORIZED.

After holding an unclaimed abandoned motor vehicle for 30 days, the town may sell or dispose of it as provided by this division.

(Ord. passed 6-5-1991)

§ 12-21 DISPOSITION AS JUNK.

If an abandoned vehicle appears to be worth less than \$100, the town may dispose of the vehicle as a junked motor vehicle as provided by Division 3 of this article. With the consent of the owner, the town may remove and dispose of any motor vehicle as a junked motor vehicle without regard to the value, condition or age of the vehicle, and without holding it for any prescribed period of time.

(Ord. passed 6-5-1991)

§ 12-22 SALE AT AUCTION.

If an unclaimed abandoned motor vehicle is worth \$100 or more, it shall be sold at public auction.

(Ord. passed 6-5-1991)

§ 12-23 NOTICE OF SALE.

Twenty days' written notice of a sale authorized under the provisions of this division 2. shall be given to the registered owner at his or her last known address, the holders of all liens of record against the vehicle, and the Department of Motor Vehicles.

(Ord. passed 6-5-1991)

§ 12-24 REDEMPTION.

Any person having an interest in an unclaimed abandoned motor vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(Ord. passed 6-5-1991)

§ 12-25 DISPOSITION OF PROCEEDS.

The proceeds of a sale authorized by this division 2. shall be paid to the Town Treasurer, who shall pay to the appropriate officers or persons the costs of removal, storage,

investigation, sale and liens in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the town for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited in the town's General Fund and the owner's rights therein shall be forever extinguished.

(Ord. passed 6-5-1991)

#### § 12-26 ISSUANCE OF TITLE CERTIFICATE.

When it receives a town's bill of sale from a purchaser or other person entitled to receive any vehicle disposed of as provided in this division, the Department of Motor Vehicles shall issue a certificate of title for the vehicle as required by law.

(Ord. passed 6-5-1991)

#### §§ 12-27 - 12-29 RESERVED.

### DIVISION 3. SALE, DISPOSAL OF JUNKED VEHICLES

#### § 12-30 AUTHORIZED.

After holding an unclaimed junked motor vehicle for 15 days, the town may destroy it or sell it at private sale as junk.

(Ord. passed 6-5-1991)

#### § 12-31 NOTICE.

Within 15 days after final disposition of a junked motor vehicle, the town shall notify the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

(Ord. passed 6-5-1991)

#### § 12-32 DISPOSITION OF PROCEEDS.

Any proceeds from the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale, and satisfying any liens of record on the vehicle have been deducted therefrom, shall be held by the town for 30 days and paid to the registered owner upon

demand. If the owner does not appear to claim the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited in the town's General Fund and the owner's rights therein shall be forever extinguished.

(Ord. passed 6-5-1991)

§§ 12-33 – 12-39 RESERVED.

#### DIVISION 4. REMOVAL AND DISPOSITION OF VEHICLES DECLARED TO BE PUBLIC NUISANCES

##### § 12-40 DEFINITIONS.

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

**JUNKED MOTOR VEHICLE.** A vehicle that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.

**NUISANCE VEHICLE.** A junked motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance or unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Aldermen; or



(8) So offensive to the sight as to damage the community, neighborhood or area appearance.

(Ord. passed 6-5-1991)

#### § 12-41 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(a) It shall be unlawful for the owner of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the Town Building Inspector may determine and declare that a vehicle is a health or safety hazard or a public nuisance as defined above and order the vehicle removed.

(Ord. passed 6-5-1991)

#### § 12-42 REMOVAL OF VEHICLE – PRETOWING REQUIREMENTS.

(a) A vehicle to be towed or otherwise removed because it has been declared to be a nuisance vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence, the notice shall be given to both by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained, notice shall be given by affixing same on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(b) If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is a nuisance vehicle, such appeal shall be made to the Board of Aldermen in writing, heard at the next regularly scheduled meeting of the Board and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(c) A nuisance vehicle may be removed without giving the minimum seven days prior notice, only in those circumstances where the authorizing official finds, and enters such findings in appropriate records, a special need for prompt action to maintain the public health, safety and welfare.

(Ord. passed 6-5-1991)

#### § 12-43 SAME – POST-TOWING NOTICE REQUIREMENTS.

(a) Any vehicle which has been determined to be a nuisance vehicle may be removed to a storage garage or area by a towing business contracting to perform such services for the town. Whenever such vehicle is removed, the Building Inspector shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) A description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicles; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) This notice shall be mailed to the owner's last known address, unless waived in writing.

(c) If the vehicle is registered in the state, notice shall be mailed within 24 hours. If the vehicle is not registered in this state, notice shall be mailed to the owner within 72 hours from the removal of the vehicle.

(d) Whenever a nuisance vehicle is removed, and such vehicle has no valid registration or registration plate, the authorizing town official shall make reasonable efforts, including the checking of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information as set forth in subsections (a)(1) through (a)(5) above.

(Ord. passed 6-5-1991)

#### § 12-44 SALE OF VEHICLE – RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE.

After removal of a vehicle declared to be a nuisance vehicle, the owner or other person entitled to possession may request, in writing, a hearing to determine if probable cause existed for removing the vehicle. The request must be filed with the Magistrate in the county where the vehicle was towed. The Magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provision of G.S. § 20-219.11.

(Ord. passed 6-5-1991)

#### § 12-45 SAME – PROCEDURE FOR UNCLAIMED VEHICLES.

(a) With the consent of the owner, the Building Inspector may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time.

(b) Any unclaimed junked motor vehicle as defined by this article shall be held for a period of at least 15 days. The owner of any such vehicle may claim his or her vehicle during the 15-day retention period by exhibiting proof of ownership to the Building Inspector and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held 15 days it remains unclaimed, such vehicle may be destroyed or sold at private sale as junk.

(c) Within 15 days after final disposition of a junked motor vehicle, written notice thereof shall be given to the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

(Ord. passed 6-5-1991)

#### § 12-46 SAME – DISPOSITION OF PROCEEDS OF SALE.

The proceeds of the sale of a junked motor vehicle declared to be a nuisance, after all costs of removal, storage, investigation and sale, and satisfaction of any lien of record on the vehicle have been deducted therefrom, shall be held by the Town Finance Officer for 30 days and paid to the owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the town's General Fund and the owner's rights therein shall be forever extinguished.

(Ord. passed 6-5-1991)

#### § 12-47 IMMUNITY.

Neither the town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any junked, lost or stolen vehicle for disposing of such vehicle as contemplated by this article.

(Ord. passed 6-5-1991)

#### § 12-48 EXCEPTIONS.

Nothing in this article shall apply to any motor vehicle in an enclosed building, any motor vehicle kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143 or to any motor vehicle that is used on a regular basis for business or personal use.

(Ord. passed 6-5-1991)

§ 12-49 RESERVED.

DIVISION 5. ABANDONED/JUNKED VESSELS – GENERALLY

§ 12-50 PURPOSE.

It is recognized that boating and watercraft use in the Town of North Topsail Beach is a widely enjoyed form of leisure and recreation. It is equally recognized that some owners do not safely and properly dispose of their boats or watercraft.

The Town of North Topsail Beach Board of Aldermen hereby determines that the following rules and regulations are necessary to protect the health, safety and general welfare of citizens using the public waters within the jurisdictional boundaries of the Town of North Topsail Beach.

§ 12-51 AUTHORITY; SCOPE.

(a) This article is adopted pursuant to the authority granted to the North Topsail Beach Board of Aldermen in Session Law 2023-27 S.B. 465 to regulate junked or abandoned vessels in navigable waters within the Town of North Topsail Beach jurisdictional boundaries pursuant to G.S. 160A-205.6 and to regulate the removal of such vessels pursuant to G.S. 160A-303.

(b) This article shall apply to all navigable waters within the jurisdictional boundaries of the Town of North Topsail Beach, North Carolina.

(c) This article shall not apply to vessels owned or operated in the official performance of duties by any federal, state, or local government authority.

(d) This article shall not apply to any shipwreck, cargoes, tackle, and other underwater archeological remains that have been in place and unclaimed for more than ten (10) years, and shall not be removed without the approval of the North Carolina Department of Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-23.

(e) This article shall not be construed to obligate the Town of North Topsail Beach to appropriate funds to implement the provisions herein.

§ 12-52 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:*

(1) A vessel that is moored, anchored, or otherwise located for more than thirty (30) consecutive days in any one hundred eighty (180) consecutive-day period without permission of the dock owner; or

(2) A 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.

(3) 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 G.S. 121-22 and 121-23.

Days means calendar days, where the term is used for computation of time.

Junked vessel means a vessel that has been left unattended and 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.

Navigable waters means all waters within the jurisdictional boundaries of the Town of North Topsail Beach that are subject to the ebb and flow of the tide, including rivers, waterways, streams (including intermittent streams), mudflats, sandflats, and wetlands.

Owner means a person, other than a lien holder, having the legal or equitable property interest in or title to a vessel, or the person's legal representative. For purposes of this article, where a vessel is determined to have been registered with the North Carolina Wildlife Resources Commission, or an agency of another state responsible for registration, such registration shall create a rebuttable presumption that the owner is the last registered owner of record.

Person means an individual, partnership, firm, corporation, association, or other entity.

Police Chief means the North Topsail Beach Police Chief, or such duly authorized officer or agent of the Chief.

Vessel means every description of watercraft or structure, other than a seaplane on the water, used or capable of being used as a means of transportation or habitation on the water.

§ 12-53 ANCHORING; DOCKING; MOORING: INTERFERENCE WITH NAVIGATION.

(a) It shall be unlawful for any person, except in the case of emergency or as required for maintenance dredging, to anchor, moor, raft-up or permit to be anchored, moored or rafted-up, or operate any vessel or carry on any activity including, but not limited to, the placing of crab traps, anchor lines, anchors, mooring buoys, pilings or similar objects in a manner which shall constitute a hazard to navigation or interfere with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels shall constitute interference if done during periods of heavy vessel traffic.

(b) It shall be unlawful for any person to anchor, dock, moor, or store any vessel in the waters within the jurisdictional boundaries of North Topsail Beach for more than ten (10) days in a thirty-day period in any calendar year, except at a private dock or marina.

(c) For its first ten (10) days in North Topsail Beach waters in any thirty-day period in any calendar year, any transient vessel legally anchored and attended shall be deemed to have anchorage permission for provisioning, repairs, tourism, and recreational use, unless such permission is revoked in writing by the Police Chief for any of the reasons given below:

(1) The vessel has dragged anchor or is moored in an unauthorized area, or in a marked channel.

(2) Unless exempt pursuant to G.S. 75A-7, the vessel displays no evidence of current state, federal, or foreign registration, or, when asked by the Police Chief, the owner or operator of the vessel fails to present a current registration, cruising permit, or other official documentation of ownership upon which he or she is named as the owner or operator.

(3) The vessel is left unattended for a period exceeding twenty-four (24) hours. "Unattended" shall mean for the purposes of this section that the owner or operator has not been found on the boat or in its immediate vicinity and has failed to respond to any posting or citation left by the Police Chief.

(4) The vessel is slept on but is not equipped with a holding tank or the owner or operator fails to provide the Police Chief with receipts for regular weekly pump outs of the vessel's holding tank.

(5) Law enforcement officers have responded to complaints of excessive noise, thefts, firearms violations, controlled substance violations, or other disturbances of possible danger to the environment or any person, emanating from the vessel or its crew.

(6) The vessel is at any time within seventy-five (75) feet of any other legally anchored vessel, or any private mooring or private dock or marina without the written permission of the owner.

(7) If the Police Chief, or his designee, determines there are safety-related or environmental reasons for denying permission during a particular period of time, or in a particular place, or in a particular manner.

(8) During a hurricane warning each vessel operator shall secure their vessel to prevent the vessel, and/or its parts or contents from damaging the property of others.

(9) It shall be unlawful to anchor vessels without ground tackle to hold the vessel at anchor. Vessels at anchor shall maintain a firm anchor and the operator shall ensure that the vessel is not slipping anchor and changing its location.

(10) When necessary, the Police Chief may act or may join in action with other agencies to determine and abate any unsafe or environmentally hazardous conditions by towing, relocating, removing any vessel, or taking any other action reasonably necessary.

(11) The Police Chief shall post unattended vessels which are in violation until five (5) violations have been posted. The Police Chief shall then continue to monitor the violating vessel until ten (10) days have elapsed from the date of the first posting. If the person in control of the vessel returns, or contacts the office of the Police Chief, and abates the violation within that time, no further actions, other than payment of accrued fines, need to be taken.

(12) If the owner of any unattended vessel anchored, moored, docked or stored in North Topsail Beach waters fails to respond to notices or pay fines and fees as required by this section for more than ten (10) days from the first posting, the vessel may be taken into custody by the Police Chief and stored in a safe place of storage.

(13) The owner shall be responsible for the costs of towing and storage of the vessel. Any vessel towed, removed, relocated or impounded shall be subject to a lien pursuant to G.S. 44A.

#### § 12-54 JUNKED VESSELS PROHIBITED.

(a) It shall be unlawful to anchor, moor or ground any derelict vessel on the public land or waters of North Topsail Beach, or waters adjoining private property. Indicators that a vessel is derelict include, but are not limited to, the following:

(1) Improper, non-working, or no anchor light, which is a hazard to navigation, when combined with an owner/operator who is not tending to the vessel;

(2) Vessel is neglected, substantially dismantled, improperly maintained, or is not able to be used for navigation as intended;

(3) Vessel does not comply with current registration requirements, when combined with an owner/operator who is not tending to the vessel;

(4) Vessel is barnacle-laden;

(5) Vessel interior is exposed to the elements (rain, waves, etc.);

(6) Vessel is listing;

(7) Vessel is aground;

(8) Vessel is in danger or breaking its mooring; or

(9) Vessel is sinking.

(b) Upon identifying a derelict vessel, the Police Chief shall post a notice on board the vessel and shall attempt to notify the owner by certified mail or personal delivery of notice. 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;

(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 date 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 of the jurisdictional boundaries of North Topsail Beach within thirty (30) days, after notice, shall cause the vessel to be defined as an abandoned vessel, and disposed of pursuant to Chapter 12-62.



§ 12-55 ABANDONED VESSELS PROHIBITED.

(a) It shall be unlawful to abandon a vessel on public land, submerged land, or waters of the Town of North Topsail Beach, or waters adjoining private property. This section does not apply to persons who abandon a vessel in an emergency for the safety of the persons onboard; however, after the emergency is over, the owner and operator of the abandoned vessel shall notify the North Topsail Beach Police Department or the United States Coast Guard and must remove the vessel within ten (10) days.

(b) Upon identifying an abandoned vessel, the Police Chief shall post a notice on board the vessel and shall attempt to notify the owner by certified mail or personal delivery of notice.

(1) Describe the vessel and location of the vessel, however the notice posted aboard the vessel need not include description and location;

(2) Inform the owner that the vessel must be removed from the waters or public lands and the affected surrounding environmental area restored, and/or claimed upon payment of all fines and fees, within thirty (30) days of the date the notice is posted aboard the vessel;

(3) Inform the owner that failure to meet the ten (10) day deadline will result in the vessel being deemed abandoned, subject the owner to civil/criminal penalties, and that all costs associated with publication of notice, removal and disposition of the vessel and restoration of the affected surrounding environmental areas will be the responsibility of the owner.

(c) Any abandoned vessel located on or below any navigable waters, or beached, or grounded adjacent thereto may be removed or relocated and impounded by the Police Chief.

(d) The owner shall be responsible for all costs of towing, relocation, removal and storage of the vessel, and restoration of the area surrounding the vessel, including costs owed to a third party, and costs incurred by the Town of North Topsail Beach or the North Topsail Beach Police Department. Any vessel towed, removed, relocated or impounded shall be subject to a lien pursuant to G.S. 44A.

§ 12-56 DISCHARGE PROHIBITED.

(a) It shall be unlawful to:

(1) Place, discharge or deposit, by any process or in any manner, offal, piles, lumber, timber, driftwood, dirt, ashes, cinders, mud, sand, dredging, sludge, acid, or any other garbage or refuse matters, floatable or otherwise, in Town waters.

(2) Discharge, or cause or permit to be discharged, into Town waters any oil, oil refuse, fuel, or other inflammable matter.

(3) Discharge, or cause or permit to be discharged, any vessel waste into Town waters. For the purposes of this section, "vessel waste" shall mean sewage, whether treated or untreated, from marine toilets. Marine sanitation devices must be secured in a manner which prevents any discharge. Some acceptable methods are: padlocking overboard discharge valves in the closed position, using non-releasable wire tie to hold overboard discharge valves in the closed position, closing overboard discharge valves and removing the handle, locking the door, with padlock or key lock, to the space enclosing the toilets (for Type I and Type II marine sanitation devices only).

§§ 12-57 – 12-59 RESERVED.

#### DIVISION 6. ENFORCEMENT RESPONSIBILITY AND AUTHORITY FOR ABANDONED/JUNKED VESSELS.

#### § 12-60 ENFORCEMENT RESPONSIBILITY AND AUTHORITY.

(a) The Police Chief, or any law enforcement officer with territorial jurisdiction, is authorized and empowered to enforce this article.

(b) The Police Chief 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 Police Chief is authorized to seize, tow, remove or relocate the vessel from the public waters, and to store or dock the vessel in a safe place, 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 Town of North Topsail Beach or the Police Chief 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 method of removal, storage, or disposal of the abandoned vessel, whether by the owner, a third party, the Police Chief, the Town of North Topsail Beach, or the state, must comply with all applicable federal and state laws, regulations, and rules.

(f) The owner shall be responsible for all costs of towing, relocation, removal, and storage of the vessel, including costs owed to a third party, and costs incurred by the Town of North Topsail Beach or the North Topsail Beach Police Department.

(g) The Town of North Topsail Beach, elected officials, the Police Chief, any law enforcement officer, or any contractor or any employee or agent thereof, acting under this article to remove or relocate a vessel from public waters, shall be held harmless for all damages to the vessel resulting from such removal or relocation, unless the damage results from gross negligence or willful misconduct.

#### § 12-61 PENALTIES FOR VIOLATIONS.

(a) *Criminal penalties.*

(1) A violation of this chapter shall be deemed a Class 3 misdemeanor punishable to the extent provided in G.S. 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 of this article shall be subject to a civil remedy in the amount of one hundred dollars (\$100.00) per offense. A violation that either reoccurs or continues without cessation after a twenty-four (24) hours period shall constitute a separate offense.

(2) Civil remedies shall be used in the recovery of the costs expended enforcing this article.

(3) Any civil remedy may be appealed to the Police Chief, the Town Manager, or his/her designee, within thirty (30) days of the issuance of the civil remedy. A hearing shall be held within fifteen (15) working days of the appeal. Such appeal shall be made in writing and presented to the Police Chief. The Police Chief shall then deny or grant the hearing based on the thirty (30) day threshold. The hearing, if granted, will consist of a three-person panel to include the Police Chief, Town Manager, and one designee. The decision of the panel will be deemed final unless appealed and overturned by a court with jurisdiction over these matters.

(4) Any decision of the Police Chief, Town Manager, or his/her designee, may be appealed to the District Court of Onslow County within thirty (30) days.

§ 12-62 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 G.S. 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 of as provided in G.S. 44A, with the proceeds paying for the towing, removal, and storage charges, accrued civil fines, and environmental restoration costs. The remaining proceeds, if any, shall be deposited into the general fund of the Town of North Topsail Beach 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 of 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 Police Chief 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 of or sold as an abandoned vessel;

(6) Type of disposition and location;

(7) Full name and address of the purchaser (if applicable); and

(8) Date of sale and sale price (if applicable).

§ 12-63 SEVERABILITY.

If any article, section, subsection, sentence, or clause of this article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this article. It is hereby declared that this article would have been passed, and each article, section, subsection, sentence, or clause hereof, irrespective of the fact that any one (1) or more articles, sections, subsections, sentences, or clauses might be adjudged to be unconstitutional or for any other reason invalid.

§§ 12-64 – 12-69 RESERVED