

Sec. 26-3. Definitions.

(a) The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Abandoned vessel. A vessel that meets any of the following:

(i) 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.

(ii) 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.

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

Navigable waters. All waters within Ocracoke Harbor that are subject to the ebb and flow of the tide, including rivers, waterways, streams (including intermittent streams), mudflats, sandflats, and wetlands.

Owner. A person, other than a lienholder, having a legal or equitable property interest in or title to a vessel, or the person's legal representative. For the purposes of this Article, when 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. An individual, partnership, firm, corporation, association, or other entity.

Vessel. 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.

Sec. 26-4. Abandoned Vessels Prohibited.

(a) It shall be unlawful to abandon a vessel in the navigable waters of Ocracoke Harbor.

(b) The County may remove, or cause to be removed, to a storage facility or area any abandoned vessel found to be in violation of this Article.

(c) When an abandoned vessel is removed, or caused to be removed, pursuant hereto, the County shall notify the Owner in accordance with North Carolina General Statute §20-219.11(a) and (b) to the extent the same may be applicable or adaptable to vessels, and in accordance with any other applicable law.

(d) Regardless of whether the County removes and disposes of abandoned vessels or contracts with another person to do so and/or regardless of whether the County is responsible, or the person who removes the abandoned vessel is responsible, for collecting the fees, including towing fees, associated therewith, all the provisions of Article 7A, Chapter 20 of the North Carolina General Statutes shall apply, including the procedures therein regarding release of the vessel upon the posting of a bond or payment of the fees due, a hearing, and an appeal to District Court from that hearing.

(1) For the purposes of this section, the definitions of North Carolina General Statute § 20-219.9 shall apply as adapted to vessels.

(e) Regardless of whether the County removes and disposes of abandoned vessels or contracts with another person to do so and/or regardless of whether the County is responsible, or the person who removes the abandoned vessel is responsible, for collecting the fees, including towing fees, associated therewith, the sale procedure contained in North Carolina General Statute §44A-4, 44A-5, and 44A-6 shall apply with regard to the abandoned vessel removed and stored, except, if the County is responsible for collecting the fees, including towing fees, associated therewith, no hearing in addition to the probable cause hearing is required.

(f) If an abandoned vessel is not purchased at a sale conducted hereunder and if the value of the abandoned vessel is less than the amount of the lien, the County may destroy the abandoned vessel or cause the abandoned vessel to be destroyed.

(g) The Owner of an abandoned vessel shall be responsible for all costs of towing, relocation, removal, storage and disposal of the abandoned vessel, and the restoration of the area surrounding the abandoned vessel, including any costs owed by the County to any third party and the costs incurred by the County with regard to the abandoned vessel. Any vessel towed, removed, relocated or stored shall be subject to a lien pursuant to North Carolina General Statute § 44A or any other applicable law.

Sec. 26-5. Enforcement Responsibility and Authority.

(a) The County and any law enforcement officer or representative of any governmental agency with territorial jurisdiction is authorized and empowered to enforce this Article. Said authority includes the authorization to board any vessel as may be required to enforce the provisions of this Article or any state or federal law, and such boarding shall not constitute a trespass.

(b) The County or others authorized hereunder may use staff, equipment, and material under its control or provided by any cooperating federal, state, 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, and disposal of an abandoned vessel and the restoration of the affected area pursuant to this Article.

(c) The County, its elected officials, and any others authorized hereunder including any law enforcement officer, or any contractor or any employee or agent of the foregoing, acting under this Article shall be held harmless for any and all claims for any and all damages, including but not limited to damages to the abandoned vessel, unless the damage results from gross negligence or willful misconduct.

Sec. 26-6. Disposal of Abandoned Vessel.

(a) An abandoned vessel, including all cargo, tackle and equipment, removed and stored pursuant to this Article that remains unclaimed after notice and/or any attempted sale shall be deemed forfeited as set forth in North Carolina General Statute § 14-399(g) and may be disposed of in the County's discretion.

(b) Following the sale or disposal of any abandoned vessel previously registered in any state, or meeting the requirements for registration prior to operation in North Carolina, the

County or its authorized contractor/agent, 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 the following, if available:

- (i) Vessel registration number;
- (ii) Manufacturer, model, and year;
- (iii) North Carolina title number (if applicable);
- (iv) Hull identification number;
- (v) A description of the reason of being sold or disposed of as an abandoned vessel;
- (vi) Type of disposition or location;
- (vii) Full name and address of the purchaser (if applicable); and
- (viii) Date of sale and sale price (if applicable).

Sec. 27-7. Liability.

The County nor any person may be held to answer any civil or criminal action brought by any owner or other person legally entitled to the possession of an abandoned vessel for disposing of an abandoned vessel as provided for in this Article.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4. This ordinance shall take effect and be in force from and after the date of its adoption.