

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: April 3, 2023

Agenda Item: 6	Prepared by: Chris Noury, City Attorney
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: March 27, 2023
Subject: Amendment to Chapter 5, Beaches and Waterways adopting Section 5-8, Mooring boats and vessels	Division: Legal

Boats, vessels, and watercraft that are anchored or moored near the City’s public beach could pose a safety hazard to swimmers, people in the surf-line, and members of the public that engage in parasailing as well as to the crew members of the parasailing operations.

The purpose of the attached ordinance is to regulate and control the anchoring and mooring of boats or vessels within the public ocean waters so as to preserve the unique nature of the public beach and the public ocean waters and to protect all persons who utilize the City’s public beaches and public ocean waters from harm, undue annoyance, disturbance, and inconvenience.

The proposed ordinance would regulate (within the jurisdictional limits of the City, which extends one mile seaward from the City’s beaches) the time and place in which anchoring or mooring of boats or vessels is permitted *and* regulate abandoned and derelict boats or vessels within the public ocean waters as follows:

Within the territorial limits of the City, no person shall:

1. Anchor or moor a boat or vessel with the public ocean waters for a period exceeding twenty-four (24) hours, irrespective of whether said boat or vessel relocated within the defined area during the twenty-four (24) hour period.
2. Install a mooring buoy within the public ocean waters for a period exceeding twenty-four (24) hours, irrespective of whether said mooring buoy is relocated within the defined area during the twenty-four (24) hour period.

The ordinance also provides that abandoned or derelict boats or vessels are not permitted in the public waters (unless abandoned during an emergency) or grounded on the public beach.

The ordinance provides that the regulations do not apply to:

1. Any boat or vessel anchored or moored in an emergency, provided, however, that after the emergency is over, the owner and/or operator of the boat or vessel shall make a bona fide attempt to recover the boat or vessel within twenty-four (24) hours of the emergency ending.
2. Any boat or vessel under the direction or control of a governmental entity.
3. Any boat or vessel authorized by franchise agreement.

Recommended Action:

Approve or deny the ordinance on second reading

Reviewed by Department Head	Reviewed by City Manager	Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH TO ADOPT
SECTION 5-28 FOR INCLUSION IN CHAPTER 5, BEACHES AND WATERWAYS,
AS FOLLOWS:**

WHEREAS, the city is concerned about boat or vessel owners anchoring, mooring, and/or abandoning their boats or vessels near the city's public beach; and

WHEREAS, the city is concerned about protecting human life particularly to swimmers and existing franchisees and their customers and due to the safety risks associated with over-crowded waterways, haphazardly anchored or moored boats or vessels, or abandoned boats and vessels; and

WHEREAS, the city is concerned about navigation hazards, particularly in emergency situations where public safety services are needed and associated with over-crowded waterways, haphazardly anchored or moored boats or vessels, abandoned boats or vessels; and

WHEREAS, the city is concerned about anchored or moored boats or vessels interfering with beach renourishment operations; and

WHEREAS, the city has a duty to protect its citizens who utilize public beaches and public ocean waters from harm, undue annoyance, disturbance and inconvenience; and

WHEREAS, the city has a responsibility to its citizens to protect, preserve, restore and enhance the unique nature of the public beaches and public ocean waters; and

WHEREAS, the city has recommended limiting the time and place in which anchoring or mooring a boat or vessel is permitted; and

WHEREAS, the city has recommended regulating abandoned and derelict boats or vessels within public ocean waters; and

WHEREAS, the State of South Carolina grants the city the authorization to regulate public ocean waters in S.C. Code Ann. §5-7-140 and §5-7-150.

NOW, THEREFORE, the following additions to the ordinances of the City of North Myrtle Beach are hereby enacted:

Sec. 5-28. MOORING BOATS OR VESSELS.

- 5-28.01 Purpose, jurisdiction, and definitions
- 5-28.02 Anchoring, mooring, and buoy installation prohibited
- 5-28.03 Abandoned and derelict boats or vessels
- 5-28.04 Administration and enforcement
- 5-28.05 Penalty

Sec. 5-28.01. PURPOSE, JURISDICTION, AND DEFINITIONS.

- A. Purpose. The purpose of this chapter is to regulate and control the anchoring and mooring of boats or vessels within the public ocean waters so as to preserve the unique nature of the public beach and the public ocean waters, prevent environmental harm, and protect all persons who utilize public beaches and public ocean waters from harm, undue annoyance, disturbance and inconvenience. Specifically, the purpose is to regulate the anchoring and mooring of boats or vessels by:
 - 1. regulating the time and place in which anchoring or mooring of boats or vessels is permitted; and
 - 2. regulating abandoned and derelict boats or vessels within the public ocean waters.
- B. Jurisdiction. Pursuant to S.C. Code Ann. §5-7-140 and §5-7-150, the city is authorized to regulate waters of the ocean connected to the public beach as defined in this chapter and extending in a straight line for one (1) mile into the Atlantic Ocean from the point where the corporate limits of the city reach the high-water mark.
- C. Definitions. For purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.
 - 1. ABANDON OR ABANDONED. Any watercraft that has been anchored, 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.
 - 2. BOAT OR VESSEL. 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.

3. DERELICT BOAT OR VESSEL. A boat or vessel that has been left unattended or is in significant disrepair, such that the condition may affect the seaworthiness of the boat or vessel or the safety of the public or the environment.
4. MOORING BUOY. A buoy fixed to the bottom of navigable water with means such as a ring to moor a boat or vessel by use of an anchor chain or mooring lines.
5. PUBLIC OCEAN WATERS. That area of ocean connected to the public beach as defined in this chapter and extending in a straight line for one (1) mile into the Atlantic Ocean from the point where the corporate limits of the city reach the high-water mark.
6. DEPARTMENT. The North Myrtle Beach Police Department.

Sec. 5-28.02. ANCHORING, MOORING AND BUOY INSTALLATION PROHIBITED.

A. Within the territorial limits of the city, no person shall:

1. anchor or moor a boat or vessel within the public ocean waters for a period exceeding twenty-four (24) hours, irrespective of whether said boat or vessel relocated within the defined area during the twenty-four (24) hour period; or
2. install a mooring buoy within the public ocean waters for a period exceeding twenty-four (24) hours, irrespective of whether said mooring buoy is relocated within the defined area during the twenty-four (24) hour period.

B. This section does not apply to:

1. Any boat or vessel anchored or moored in an emergency; provided, however, that after the emergency is over, the owner and operator of the boat or vessel shall make a bona fide attempt to recover the boat or vessel within twenty-four (24) hours of the emergency ending;
2. Any boat or vessel under the direction or control of a governmental entity; and
3. Any boat or vessel authorized by franchise agreement.

Sec. 5-28.03. ABANDONED AND DERELICT BOATS OR VESSELS.

- A. Abandoned or derelict boats or vessels are not permitted in the public ocean waters or grounded on the public beach.
- B. This section does not apply to any boat or vessel abandoned in an emergency; provided, however, that after the emergency is over, the owner and operator of the boat or vessel shall make a bona fide attempt to recover the boat or vessel within twenty-four (24) hours of the emergency ending.

- C. An abandoned or derelict boat or vessel must be removed at the sole risk and expense of the owner.

Sec. 5-28.04. ADMINISTRATION AND ENFORCEMENT.

- A. The following provisions shall be applied and enforced within the City's public ocean waters and on the City's the public beach, if applicable:
 - 1. The administration and enforcement of the provisions of this section shall be vested in the City of North Myrtle Beach Police Department.
 - 2. The department shall post notice on a clearly visible location of any boat or vessel in violation of any provision of this section. The department shall continue to monitor the violating boat or vessel until ten (10) days have elapsed from the date of the posting. If the person in control of the boat or vessel returns, or contacts the department, and abates the violation within the timeframe set forth in this section, no further actions, other than payment of accrued fines, need to be taken.
 - 3. However, if the owner of any unattended boat or vessel anchored, moored, abandoned, or derelict in violation of any provision of this section fails to respond to notices or pay fines as required by this section for more than ten (10) days from the posting of notice, the boat or vessel may be taken into custody by the department.
 - 4. The owner shall be solely responsible for the costs of towing, removing, storing, and/or salvaging the boat or vessel. Any boat or vessel towed, removed, relocated or impounded shall be subject to a lien for associated costs. The owner of the boat or vessel may only redeem the boat or vessel from the designated storage area upon payment of costs and fines. The city or its contractor is not liable for damages associated with enforcement of any provision of this section.
 - 5. If a boat or vessel is seized, the department shall report the boat or vessel to the South Carolina Department of Natural Resources for owner notification. If the boat or vessel is deemed abandoned by the Department of Natural Resources, it shall be eligible for removal in accordance with South Carolina state law.
 - 6. This section does not limit any other rights granted to the city or the department by federal, state or local law.

Sec. 5-28.05. PENALTY.

A person who violates any provision of this section shall be subject to punishment under Section 1-6 upon conviction.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA:

Section 1.

Section 5-28 as indicated in the ordinance attached is hereby adopted for inclusion in Chapter 5 of the Code of Ordinances.

Section 2. The Ordinance shall become effective upon the date of passage.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2023.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 3.20.2023

SECOND READING: 4.3.2023

REVIEWED:

City Manager

ORDINANCE: 23-35