Tab 4

AN ORDINANCE TO AMEND THE ORIENTAL CODE OF GENERAL ORDINANCES.

Draft Rewrite of Chapter E
Created 11-10-24, Updated 7-10-25 - 5 PM

Oriental Chapter E with ADV Ordinance

CHAPTER E - TOWN OF ORIENTAL DOCKING FACILITIES

ARTICLE I – GENERAL RULES

Section 1 – Attaching Vessels to Docks and Bulkheads

Vessels should be secured bow-and-stern and spring line alongside the Docking Areas by attaching to the cleats and/or pilings provided. No vessel may be tied to a fence, rub rail or other component not expressly designed for securing a vessel. **NO Mediterranean Mooring (stern to stern)**. Under special conditions as determined by the Town Manager, Bow In/Engine Down is specified to accommodate more small dinghies and tenders.

Section 2– Fairway to be Maintained

A safe and adequate **fairway (open channel)** for ingress and egress of vessels from the town's public docking facilities and private docks should be maintained at all times.

Section 3–Rafting

Rafting of vessels (tied gunnel to gunnel) is prohibited for vessels tied to the town's public docking facilities except when waived on such special occasions as specified by the Town Commissioners.

Section 4 –Open Fires

Open fires are prohibited on any dock or bulkhead provided by the Town of Oriental and on any vessel docked thereon.

Section 5 – Generators

No generators may be operated while docked at Town facilities.

Section 6 – Named Storms

Oriental requires that boaters remove their vessels from Oriental Docks once a hurricane watch or tropical storm warning is issued until docks have been declared safe for use.

Section 7 – Private Use of Town owned Docks

The Oriental Town Board may at times reserve one or more of Oriental's Docking Areas for use associated with a local event. The request should be made at least fourteen (14) days in advance of the Board's Regular Monthly Meeting closest to the event.

Section 8 – Commercial Vessels

Commercial vessels of any size, other than those of recreational charter fishing groups, tow boat companies, recreational charter boating groups or recreational boat rentals, are prohibited from using the Town Docks for overnight stays.

Section 9- Maintenance and Repair

No maintenance or repair of vessels may make use of Town property, including town owned docks or town owned land adjacent to these docks. **(See Article V, Section 7)**

ARTICLE II – DAY DOCKING AREAS

Section 1 – Town Docks and Docking Areas

The Town of Oriental provides dockages for recreational non-motored, motor and sailing vessels at these locations on a first-come, first served basis:

Section 2 – Day Dock Locations

Oriental's Day Docking Areas are:

(a) Dinghy Dock – South Water Street Terminus at Smith Creek
(b) Small Boat/Paddle Dock – Midyette Street South Terminus at Smith Creek
(c) Hodges Street Bulkhead West – Along Hodges Street/Raccoon Creek as indicated by signs.
(d) Town Dock #1 at Hodges St
(e) Town Dock # 2 at South Avenue Terminus at Racoon Creek

Section 3 – Vessel Length

Vessels with hulls up to twenty-one (21) feet may tie up to Day Docks, Town Dock 1 (Marina side), Hodges St. West Bulkhead, and Town Dock 2 (Marina side).

Section 4 – Hours of Operation

Vessels may dock at any Town of Oriental Day Docking Area between the hours of 5:30 AM and Midnight AM. **During the months of August and September Town Dock #1 is limited to 2 hr docking during the hours of 5:30 AM til Midnight**. These hours may be altered or waived by the Oriental Town Board of Commissioners on occasion to accommodate various events. Signs will be posted.

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ARTICLE III – OVERNIGHT DOCKING AREAS

Section 1 – Town Docks and Permitted Docking Areas

The Town of Oriental provides dockage for recreational non-motorized, motor and sailing vessels at these locations on a first-come, first served basis:

Section 2 – Overnight Docking Locations

These docking areas are designed for larger vessels and cruising vessels with crew accommodations.

(a)Town Dock #1 - Hodges Street
(b)Town Dock #2 – South Avenue South Terminus at Raccoon Creek

Section 3 – Duration of Overnight Stay

The use of Overnight Docks requires a completed registration form available at each dock. Commercial vessels should register with the Town and have current insurance information on file. Vessels may dock at either Town of Oriental Overnight Docking Area for up to **Seventy Two(72) hours** within any 30 day period. **The 72 hour limit** is a combination of dockage on both Town Docks. **No overnight stays are allowed at Town Dock #1 during the Months of August and September.**

Section 4 – Emergency Extension of Stay in Overnight Permitted Areas

If a vessel or crew declares an emergency that makes moving the vessel unsafe for those aboard or otherwise unsafe, or if a passenger on any vessel has called for emergency medical care, that makes it impossible to move the vessel, they should notify Oriental Town Hall at the number on the signs as soon as possible to avoid violations and penalties.

ARTICLE IV – EMERGENCY DOCKING AREA

Section 1 – Location

Along the East Side of the Hodges St Bulkhead as indicated by signs

Section 2 – Vessels that may use this area

Any emergency or law enforcement vessel such as US Coast Guard, NC Marine Patrol, NC Wildlife Commission, and Vessel Towing or Recovery services.

ARTICLE V – VIOLATIONS AND PENALTIES OF ARTICLES II & III

Rules are posted at www.TownofOriental.com

Section 1 – Penalties and Warnings

The Oriental Police Department may regularly patrol and supervise all town docks.

Section 2 – Docking Area Types Will be Indicated by Signs

The Town will provide signs as described in this ordinance and ensure they are maintained and readable.

Section 3 – Warnings

A first violation by a vessel in any area except the Article IV – Emergency Short- Term Docking may incur a warning with information describing the violation.

Section 4 – Penalties

(a) Article I – General Rules - $25/violation in each 24-hour period the violation continues

(b) Article II – Public Short-Term Docking Areas - $25/violation in each 24-hour period the violation continues.

(c) Article III – Public Overnight Docking Areas - $100/violation in each 24-hour period the violation continues

Section 5 – Unpaid Penalties

A boat that has outstanding fines may not tie up at any of Oriental's Overnight Docking Areas. The Police should inform the operators of those vessels that they should pay the outstanding fine or leave the dock immediately.

ARTICLE VI – ABANDONED VESSELS AND DERELICT VESSELS; DISCHARGES AND DEPOSITS - UNLAWFUL

Section 1- Purpose and Authority.

The Council of the Town of Oriental has determined that it is vital for the health, safety and welfare of its citizens and visitors to protect and preserve its waterways from environmental hazards, to keep the same free of obstructions and debris, to support navigation within its jurisdiction, to promote and preserve the health and beauty of its coastal water resources and shorelines, and to remove, abate, or remedy public nuisances, including but not limited to derelict and abandoned vessels.

Section 2 -Definition of Terms

Abandoned vessel - a vessel that has been relinquished, left, or given up by the lawful owner without the intention to later resume any right or interest in the vessel, as further provided in this Article. The following conditions will be used to determine whether the vessel was abandoned.

(a) A vessel that is docked within navigable waters for more than 10 consecutive days in any 180 consecutive-day period without permission of the dock owner to which the vessel is tethered or otherwise attached, or

(b) 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 in the harbor navigational area of Racoon Creek (from the Bulkhead at Hodges St along both banks of Racoon Creek downstream to Marker #8)

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

Derelict vessel - a vessel that, while docked or bottomed in navigable waters or grounded on public or private land inside of Oriental jurisdictional limits and has been left unattended for ten consecutive (10) days or more and/or 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, including but not limited to, one or more of the following vessel conditions:

(a) Improper, non-working, or no anchor light, with no owner/operator attending the vessel.
(b) Neglected, or substantially dismantled, or improperly maintained, or is not able to be used for navigation as intended.
(c) Not compliant with current registration requirements, with an owner/operator who is not attending the vessel.
(d) Vessel interior is exposed to the elements (rain, waves, etc.).
(e) Vessel is listing.
(f) Vessel is aground; or
(g) Vessel is sinking, sunk, or taking on water.

Floating structure - a barge-like structure, that is not used as a means of transportation on water, but which serves purposes or provides services typically associated with a structure on or other improvement to real property used for human habitation or commerce. Incidental movement or the capability of movement upon water does not preclude a structure from classification as a floating structure. Registration of the structure as a vessel in accordance with G.S. Chapter 75A does not preclude a structure from classification as a floating structure.

Navigable waters - all waters that are subject to the ebb and flow of the wind tide, including rivers, waterways, streams (including intermittent streams), mudflats, sandflats, and wetlands.

Owner - a person, other than a lienholder, having the legal or equitable property interest in or title to a vessel, or such 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 - an individual, partnership, firm, corporation, association, or other entity.

Pierhead Line - a line established by adjacent piers on docking facilities beyond which no structure may lawfully extend out into navigable waters.

Police -Oriental Police Officers or their duly authorized agent.

Town - Town of Oriental.

Unattended Vessel - the owner or operator of said vessel has not been found on the boat or in its immediate vicinity within 24 hours of initial contact with the vessel and has failed to respond to any posting or citation on the vessel within 72 hours.

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

Section 3 - Derelict Vessels

Derelict vessels are declared to be public nuisances, and it may be unlawful to dock or ground any derelict vessel on public land or waters of Oriental.

(a) Upon identifying a derelict vessel, the Police Officer may post a notice on the vessel and may attempt to notify the owner by certified mail or personal delivery of notice. The notice should:

(1) Describe the vessel and location of the vessel.
(2) Attempt to identify the condition(s) to be corrected by the Owner or their representative.
(3) Inform the owner that the identified vessel should be removed from Town waters or lands within the Town's jurisdiction.
(4) Inform the owner that failure to meet the ten-day (10) 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, storage and disposition of the vessel and restoration of the affected surrounding environmental areas will be the responsibility of the owner, including costs owed to a third party and costs incurred by Town of Oriental, and that any vessel so towed, removed, relocated or impounded may be subject to a lien pursuant to NCGS Chapter 44A.
(5) Inform the owner that within ten (10) calendar days of the posting of the notice as above described, the owner may request a hearing before the Town Manager regarding the status of the vessel, with the right to appeal any order rendered by the Manager that is adverse to such owner within ten (10) calendar days to the Pamlico County District Court; however, no such appeal will stay owner's responsibility to remedy and restore environmentally affected area surrounding the vessel.

(b) The posted and mailed notice provisions of this section may be waived by the Police in circumstances in which identifying the owner of a vessel is impractical (by way of example, for vessels not displaying current state or federal registration/documentation) or under circumstances in which posting a notice on a vessel is impractical (by way of example, for vessels which are completely or mostly submerged or located such that

approaching the vessel for the purposes of affixing or posting a notice gives a risk of damage to another vessel or a risk of harm to the posting individual.

Section 4 - Abandoned Vessels.

(a) It may be unlawful to abandon a vessel on public land, submerged land, in/on navigable waters. 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 should visibly mark its location and notify the Town Police
Department and the United States Coast Guard and should remove the vessel within ten (10) calendar days.

(b) Upon identifying an abandoned vessel, the Town Police may post a notice on board the vessel unless the vessel has already been posted as a Derelict Vessel and may additionally notify the owner by certified mail or personal delivery.
The notice should:

(1) Describe the vessel and location of the vessel,
(2) Inform the owner that the vessel should be removed from the waters, or public or private lands and the affected surrounding environmental area restored and make payment of all accrued fines and fees within ten (10) days of the date the notice is posted aboard the vessel.
(3) Inform the owner that failure to meet the ten (10) calendar day deadline may 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 may be the responsibility of the owner.
(4) Inform the owner that within ten (10) calendar days of the vessel posting of the notice above described, the owner may request a hearing before the Town Manager regarding the status of the vessel, with the right to appeal any order rendered by the Town manager that is averse to such owner within ten (10) calendar days to Pamlico County District Court.

(c) After the notice and hearing provisions described above, any abandoned vessel located on or below Town waters, or grounded adjacent thereto may be removed, relocated, or impounded by the Town Police Department or its agent.

(d) The owner may 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 Town of Oriental. Any vessel towed, removed, relocated, or impounded may be subject to a lien pursuant to G.S. 44A.

Section 5 - Disposal of abandoned vessels.

(a) For abandoned vessels impounded by or for the Town of Oriental and having an estimated value less than two thousand dollars ($2,000.00), the Town of Oriental may affect disposal of the vessel at any suitable solid waste facility.

(b) For abandoned vessels impounded by or for the Town of Oriental having an estimated value of two thousand dollars ($2,000.00) or greater, the Police may affect disposal of the vessel as provided in G.S. 44A, with any proceeds received to be first applied to the costs of towing, removal, and storage of the vessel, accrued civil fines, costs of litigation, including attorney fees, and environmental restoration costs. Any remaining proceeds should be deposited into the general fund of the Town of Oriental and designated for use to abate or remove abandoned vessels and restore environmental damage resulting from other abandoned vessels.

(c) The Police may determine the value of any abandoned vessel based on information commonly available in the public domain, advice of individuals or entities having expertise in such matters, or any other reasonable basis that he or she may determine appropriate for such purposes.

(d) Any vessel, cargo, tackle, or equipment remaining unsold after being offered at public sale, may be disposed of by the Police at any suitable solid waste facility at the owner's expense.

(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 Oriental Police Department should provide notice to the North Carolina Wildlife Resources Commission or the agency responsible for registration in the state of any previously registered vessel. The contents of the notice may include, if available:

(1) Vessel registration number.
(2) Manufacturer, model, year.
(3) Title number.
(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).

Section 6 - Discharges And Deposits Prohibited. Applies to all vessels

It shall be unlawful to:

(a) Place, discharge or deposit, or cause or permit such, by any process or in any manner, offal, piles, lumber, timber, driftwood, dirt, ashes, cinders, mud, sand, dredging, sludge, acid, environmentally toxic material, paint, or other garbage or refuse matters floatable or otherwise in navigable waters except as a part of a lawful and permitted dredge project.

(b) Discharge, or cause or permit to be discharged, into navigable waters, any oil, oil refuse, fuel or inflammable matter.

(c) Discharge, or cause or permit to be discharged, any vessel waste into navigable 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 of securing 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 II marine sanitation devices only).

Section 7 – Enforcement of Article VI, Sections 3, 4, 5, & 6.

(a) The Town of Oriental Police or any law enforcement officer with territorial jurisdiction is authorized and empowered to enforce this Article.

(b) The Town of Oriental may enter into enforcement and mutual aid agreements with county, state, and federal agencies to cooperatively remove derelict and abandoned vessels, remove debris, enforce navigation, boating, water safety, resource protection, recreation, access, and public safety laws and regulations.

(c) Upon obtaining an administrative warrant in accordance with the provisions of N.C.G.S. §15-27.2, Town Police or other Town representatives are 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. In the case where a vessel is deemed by Town Police to be an imminent hazard to the immediate safety of persons or property, Police representatives may board the vessel without any written or verbal notice.

(d) The Town Police are authorized to seize, tow, remove or relocate from navigable waters, and to store or dock the vessel in a safe place, because arresting the operator, or taking any enforcement action would render the vessel unattended, or without an operator of suitable age, discretion, and competence.

(e) The Town of Oriental Police are authorized to remove and dispose of any objects which violate the provisions of the sections above.

(f) The Town of Oriental Police 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 a derelict or abandoned vessel and restoration of the affected area. The Town of Oriental may also enter into enforcement and mutual aid agreements with the entities stated above to cooperatively enforce navigation, boating, water safety, resource protection, recreation, access, and public safety laws and regulations.

(g) The method of removal, storage, or disposal of the abandoned vessel, whether by the owner, a third party, the Town of Oriental or the state, should comply with all applicable federal and state laws, regulations, and rules.

(h) The owner may 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 Oriental.

(i) Town of Oriental, it's elected officials and staff, including the Town of Oriental Police Department, any law enforcement officer or any contractor or any employee or agent thereof, acting under this Article to remove, relocate or dispose of a vessel from navigable waters should 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.

Section 8 - Penalties for violation of Article VI, Sections 3, 4, 5, & 6.

(a) Criminal penalties.

(1) A violation of this Article shall be deemed a class 3 misdemeanor punishable to the extent provided in G.S. 14-4 and shall carry a fine of five hundred dollars ($500.00) 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.

(1) 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:

(2) A violation of the Abandoned Vessels, Derelict Vessels, and Discharges and Deposits sections of this Article shall be subject to a civil penalty in the amount of five hundred dollars ($500.00) per offense. A violation that either reoccurs or continues without cessation after a 24-hour period shall constitute a separate offense.

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

(4) Any civil remedy may be appealed to the Town Manager, or his/her designee, within five (5) days of the issuance of the civil remedy. A written notice of appeal should be timely filed with the Town Clerk setting forth the name, email address, mailing address and telephone number(s) of the appealing party, the grounds for the appeal, and any information the appealing party believes supports its position. A copy of the citation should be attached to the appeal. A hearing before the Town Manager should be held within ten (10) working days of filing the appeal. The Manager should issue an email or mail a written decision within five (5) days of concluding the hearing.

(5) The decision of the Town Manager should be final unless appealed within ten (10) calendar days to the Pamlico County District Court and overturned. If the citation is upheld or the Police take other action that requires the appealing party to make payment to the Town, such payment should be made within thirty (30) days of the date of the written decision. If the appealing party fails to make payment within that time, the Town may undertake such other enforcement action(s) as appropriate.

(a) Equitable remedies –

(1) The provisions of this Article may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

ARTICLE VII – WATERCRAFT RACKS

Section 1 – Town Watercraft Rack Established

The Town of Oriental provides watercraft storage located near the Small Boat Dock at the Wildlife Ramp (adjacent to 300 Midyette St).

Section 2 – Watercraft Defined

Watercraft storage racks are designed to store personal, portable watercraft such as kayaks, canoes, and paddleboards. Watercraft shall not exceed 38 inches in width, or 16 feet in length. Racks may not be used to storage watercraft used for commercial purposes, or motorized watercraft.

Section 3 – Use of Watercraft Racks

Persons who wish to use a space in the watercraft racks should enter into a lease agreement on a form approved by the Board of Commissioners, and available in the Town Hall Office. Watercraft found in the watercraft racks in violation of this section may be removed and disposed of by the Town.

Section 4 – Rules and Regulations

The Board of Commissioners may adopt rules and regulations from time to time to regulate the use of the watercraft racks. Any violation of the rules and regulations may result in the termination of a lease agreement, and the potential imposition of penalties and costs.

A copy of the rules and regulations should be provided to every lessee of a watercraft rack space.

This Ordinance shall be effective Month xx, 2025.

Adopted this xx Day of Month 2025.

Sally Truitt Belangia, Mayor
Town Manager

Diane H. Miller,