

Bald Head Island, NC Code of Ordinances

**ARTICLE II.
CREEK ACCESS**

Sec. 18-31. Title.

This article shall be known as the Village of Bald Head Island Creek Access Ordinance, Bald Head Island, North Carolina.

(Ord. No. 52, art. I, 11-15-1997)

Sec. 18-32. Authority.

The village hereby exercises its authority to adopt and enforce a creek access ordinance pursuant to the authority granted to the village by G.S. 160A-350 et seq.

(Ord. No. 52, art. II, 11-15-1997)

Sec. 18-33. Jurisdiction.

This article shall govern the use of village-owned property at designated creek access points lying within the municipal boundaries of the village, specifically the property known as the Bald Head Island Creek Access.

(Ord. No. 52, art. III, 11-15-1997)

Sec. 18-34. Purpose.

The purpose of this article is to regulate the use of village-owned property in a manner that encourages equitable use by all property owners in an effort to ensure that recreational facilities are adequately maintained and utilized. This article is designed to adhere to G.S. 160A-351, the declaration of state policy, in which making available adequate recreational opportunities for citizens is a subject of general interest, and a function requiring appropriate action by local government. This article shall govern the use of the creek access to further these goals. These regulations represent consideration of the character of creek access points on the island and have been enacted with a view of preserving the existing environment and/or ensuring the development of a future environment that realizes the greatest possible use and enjoyment of the creek access. In addition, this article seeks to provide a safe and attractive recreational area for village property owners.

(Ord. No. 52, art. IV, 11-15-1997)

Sec. 18-35. Administration and penalties.

(a) *Administration.* The village manager shall be responsible for administering the village creek access policy.

(b) *Violations.* Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this article, shall constitute a violation of this article.

(c) *Criminal penalties.* Violation of the provisions of this article shall constitute a class 3 misdemeanor punishable by imprisonment and/or fine not to exceed \$500.00, as specified by G.

S. 14-4. Each day that the violation continues to exist shall be considered a separate and distinct offense. Nothing contained in this subsection shall prevent the village from taking such other lawful action as is necessary to prevent or remedy any violation.

(d) *Civil penalties.*

(1) In addition to other remedies cited in this article for the enforcement of this article, violations of this article may subject the offender to civil penalties as set forth in subsections (2), (3), and (4) of this subsection (d). The village may recover this penalty by civil action if not paid at the village offices within 48 hours of the issuance of any civil citation. In addition, failure to pay the civil penalty within the 48-hour period may subject the offender to criminal sanctions as set forth in subsection (c) of this section.

(2) The following civil penalties are established for violations of section 18-36(a), (b) and (d):

- a. First violation: Warning citation
- b. Second citation; each successive occurring within six months: \$300.00

If violation has not been corrected within ten days after the first citation, the subject property shall be determined to be abandoned and may be seized and a fine will be assessed daily, until the violating party takes corrective action.

(3) The following civil penalties shall be enforced for violations other than those referenced above:

First citation	\$ 50.00
Second citation for same offense	100.00
Sequential violations for same offense	100.00

These civil penalties are in addition to any other penalties which may be imposed by the court of law for violations of the provisions of this article.

(4) In addition to the foregoing enforcement provisions, this article may be enforced by any remedy provided in G.S. 160A-175, including, but not limited to, all appropriate equitable remedies issued from a court of competent jurisdiction as provided in G.S. 160A-175(d) and particularly the remedy of injunction and order of abatement as allowed by G.S. 160A-175(e).

(e) *Abandoned vessels.*

(1) If the violator fails to remove his vessel from the creek access within the specified period of time allowed, the vessel will be determined to be abandoned and the village may seize such abandoned vessels. The owner of any vessel removed pursuant to this article from any property owned by the village or any private property shall pay to the village all reasonable costs incidental to the removal and storage of such vessel.

(2) Written notice of each removal of any abandoned vessel and of the possible sale or disposition thereof shall be given as promptly as possible to the owner thereof at the owner's last known address according to the latest registration certificate or certificates of title on file with the state division of motor vehicles or department of public safety and shall describe the vessel, place of storage and procedure of recovery thereof. Notice need not be given to the registered owner when the vessel does not display a license plate or a valid registration certificate.

(3) Any time that an abandoned vessel shall be removed to a place of storage, the village shall collect the current towing fee and a daily storage fee. Any owner shall have the right to a

hearing to determine whether the vessel was abandoned within the village in order to contest the towing and/or storage fees. The hearing shall be heard by the village manager who shall determine by preponderance of the evidence as to whether the vessel was in fact abandoned. The right of appeal from such decision shall be to the district court for Brunswick County. At the conclusion of the hearing the village manager shall render his decision; the decision shall be further reduced to writing and forwarded to the owner or other individual seeking a hearing who shall be entitled to appeal the decision to the district court for Brunswick County by giving due notice of appeal within ten days of the date that such notice shall have been mailed to the individual appealing. Pending any hearing or appeal pursuant to this article, the owner or other individual may obtain a release of the vessel at any time after the towing and/or storage fees are paid or by posting a bond with the village in the form of cash in the amount of the towing and/or storage fees. Unless the cash bond shall be paid, storage fees shall continue to accrue pending resolution of the appeal.

(4) If an abandoned vessel is worth \$100.00 or more and should the owner thereof refuse to pay the costs referenced in this section or should the identity or the whereabouts of such owner be unknown and unascertainable after a diligent search, it shall, after being held by the village for 30 days and after seven days advertisement in a local newspaper and after 20 days' written notice to the registered owner at the last known address, if his identity is known, and to the holders of any liens of record against the vessel and to the state division of motor vehicles, be sold by the director of public safety or his designee at public auction; provided, however, that any person having an interest in the vessel may redeem it at any time prior to the sale by paying all costs accrued to date. Such costs shall include advertisement fees.

(Ord. No. 52, art. VI, 11-15-1997; Ord. No. 2013-0501, 5-17-2013)

Sec. 18-36. General regulations.

(a) *Storage facilities.* The village creek access, located at 109 North Bald Head Wynd (the "Access"), is equipped with storage facilities for canoes, kayaks, and small Jon boats. Use of such storage facilities is limited to those types of vessels and any trailers designed to store or transport said vessels. Property owners wanting to utilize the storage facilities may purchase a permit from the village at the currently required rate to be renewed annually at a cost to be determined by the village council. The amounts of such fees are on file and available in the clerk's office. These registration permits shall be nontransferable. Storage for such vessels and trailers shall be made available on a first come, first serve basis. The village manager may make provisions to utilize the available storage area in the most effective manner, while preserving the aesthetic beauty of the Access. These permits shall be made available to the public on January 1 of each year, or the first working day thereafter. No vessel or trailer shall be stored at the facility without having affixed thereto a valid permit. Notwithstanding the non-transferable nature of the registration permits, property owners with a valid permit to utilize the storage facilities at the Access may transfer the permit rights to another vessel of the same type owned by the property owner and obtain a new permit. The rights and duration of the prior permit shall apply to the new permit and the prior permit shall be cancelled. The transfer shall require payment to the village of a transfer administration fee as set forth on the then-current fee schedule set by the village manager from time to time and maintained at Village Hall. The initial transfer fee shall be \$50.00 for a vessel and trailer and \$25.00 for a kayak, canoe or similar small vessel. Different fees may apply to different types of vessels and/or trailers.

(b) *Parking areas.* The access is intended to allow daily use of the facilities, with parking spaces for boat trailers. The parking facilities shall be limited to daytime use. Overnight storage of trailers or boats shall require a permit pursuant to section 18-36(a).

(c) *Size limitations/restrictions.* Use of the Access shall be limited to boats under 16 feet in length with motors smaller than 25 horsepower. The launching of boats with larger motors shall

be prohibited.

(d) *Mooring of vessels.* No person shall allow a boat or vessel owned by, registered in his name or under his control to be moored at the Access overnight.

(e) *Prohibited activities.* In addition to other prohibited activities listed elsewhere in this article, the following activities are hereby prohibited on or at the Access:

- (1) Littering;
- (2) Use of crabpots;
- (3) Cooking, except for cooking in village installed permanent grills;
- (4) Cleaning of fish or shellfish;
- (5) Consumption of alcoholic beverages;
- (6) Blocking of Access boat ramp or parking areas;
- (7) Launching of jet skis.

Signs stating the prohibitions enacted in this section shall be posted at the Access, notifying the public of their restriction.

(Ord. No. 52, art. V, 11-15-1997; Ord. No. 2001-011, § 1, 5-19-2001; Ord. No. 2011-1202, 12-16-2011; Ord. No. 2013-0601, 6-19-2013)