

CHAPTER 95: BEACH, STRAND, WATERWAY, CHANNEL AND CANAL REGULATIONS

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GENERAL PROVISIONS

§95.01 DEFINITIONS

AUTHORIZED EMERGENCY VEHICLE

Vehicles of the Fire Department, police vehicles and such ambulances designated or authorized by the Chief of Police.

BEACH STRAND

All land between the low watermark of the Atlantic Ocean and the first line of stable vegetation as defined in the regulations of the North Carolina Coastal Resources Commission.

DUNE

A mound of sand located landward of the Atlantic Ocean.

DUNE SYSTEM, FRONTAL DUNE

The first mound of sand located landward of the beach having sufficient vegetation, height, continuity, and configuration to offer protective value.

DUNE SYSTEM, PRIMARY DUNE

The first mounds of sand located landward of the beach having an elevation equal to the mean flood level for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand.

EMERGENCY ACCESS

A roadway or path identified and used only by Emergency vehicles and other authorized vehicles to access the beach strand from the public street system.

ESCARPMENT

The vertical drop or steep slope in the beach profile separating two comparatively level or more gentle sloping surfaces caused from high tide or storm tide erosion. Escarpments for the purposes of this chapter shall only be determined to exist in areas where the height and slope of the escarpment would preclude reasonable pedestrian access to the beach without causing an adverse impact to the dune structure.

EXPOSE HER BREASTS

The revealing of the female breast with less than a fully opaque covering on any portion thereof lower than the top of any part of the areola.

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OBSTRUCTIONS

Any personal items designed or manufactured for use, or actually used, on the beach or in the adjacent tidal waters. Examples include, without limitations: chairs, lounges, umbrellas, cabanas, tents, horseshoes and stakes, volleyball nets, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, rafts, floatation devices, beach toys, baskets, bags, towels, coolers and any other personal property items. Obstructions shall not include municipal trash containers, signage or structures or any items placed or permitted by a governmental agency (for example signs or protection devices for turtle nests).

PERSONAL WATERCRAFT

A small vessel that uses an outboard or propeller-driven motor, or an inboard motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel NCGS 75A-13.3(a).

PUBLIC BEACH ACCESS

A raised walkway constructed for the purpose of providing access to the beach from points landward of the dune system or a sand walkway or path used for the purposes of providing pedestrian access to the beach which is located in an area where there is no escarpment present between the dune structure and the beach.

SAND RENOURISHMENT

The placement and maintenance of sand onto the beach in order to nourish, re-nourish, protect, operate and maintain a public beach, including the right to deposit sand, alter the contour of the land, construct dunes and berms, plant vegetation on and prohibit access to the dunes and berms, to erect protective silt screens and fences, and to perform any other work necessary and incident to the maintenance of the dune system.

SEA TURTLE NEST

An area located on the beach strand that has been marked by officials as a sea turtle nest.

VEHICLE

Any device in, upon or by which any person or property is or may be transported.

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§95.02 DRIVING OR RIDING ON SAND DUNES PROHIBITED

No person shall walk, ride an animal or operate a **vehicle** of any type on, over or upon any sand **dune** lying within the town limits.

§95.03 VEHICLES ON THE STRAND PROHIBITED

Except as otherwise provided herein, it shall be unlawful to place, park or operate any automobile, off-road vehicle, **dune** buggy, motorcycle, golf cart or other motor-powered vehicle, battery-powered vehicle or electric-powered vehicle on the **beach strand** within the town limits. It is also unlawful for any person who owns any of said **vehicles** to allow it to be placed or operated in violation of this section.

The provisions of this section shall not apply to:

- (1) Police, fire, rescue or other municipal **vehicles** and employees while in the performance of their duties.
- (2) **Disabled** Handicapped persons (which shall mean a person with a mobility impairment within the meaning of G. S. 20-37.5) who may operate a factory-manufactured motorized wheelchair or similar vehicle not exceeding 600 pounds gross weight designed for and intended to be used as a means of transportation for a person with a mobility impairment, or a golf cart for which has been issued a permanent **disabled** handicapped registration plate, as long as such person has received a permit issued by the Town of Sunset Beach Police Department.

~~a.~~

3. Any motorized wheelchair, similar vehicle or golf cart operating on the **beach strand** pursuant to the above subsection (2) exception for **disabled** handicapped persons shall comply with the following provisions and regulations:
 - i. The speed of any motorized wheelchair, similar vehicle or golf cart operating on the **beach strand** shall not exceed 5 miles per hour.
 - ii. No motorized wheelchair, ~~or~~ similar vehicle **or golf cart** shall at any time cross to the **beach strand** unless crossing at access-ways designated by the town as vehicular crossings.
 - iii. Pedestrians, swimmers and sunbathers shall have the right-of-way at all times while on the **beach strand**.
 - iv. Operators of motorized wheelchairs, similar **vehicles** or golf carts will at all times operate their **vehicles** in a safe and prudent manner and will give warning before starting, stopping and/or turning the vehicle.
 - v. Operators of motorized wheelchairs, similar **vehicles** or golf carts will remain clear of and not otherwise disturb federally-protected turtle nesting areas.
 - vi. In the case of a golf cart being used for a **disabled** handicapped child's access to the **beach strand**, only the parent or guardian may operate the vehicle.

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- vii. In the case of a golf cart being used, access of the **beach strand** can be made only at the ~~East End or Gazebo~~ Emergency Vehicle access-ways.

Council notes – Consider adding low speed vehicles to list above

§95.04 LITTERING PROHIBITED

No person shall throw, place or deposit any garbage on the **beach strand**, in any street, alley, public place or private property or in commercial dumpsters, within the city limits, except in placed garbage cans provided on the streets and **beach strand** for small items, not bags of household garbage.

§95.05 GLASS CONTAINERS PROHIBITED ON BEACH STRAND

It shall be unlawful for any person to have glass containers of any kind on the **beach strand**.

§95.06 DIGGING HOLES ON THE BEACH STRAND

To help prevent personal injury, damage to personal property and to allow public safety **vehicles** the ability to respond to emergencies without the risk of damage to equipment or property, holes dug on the **beach strand** are required to be attended at all times, ~~and~~ filled in prior to leaving the beach ~~and by 7:00 pm. Holes dug above the high tide mark are required to be attended at all times, filled in prior to leaving and filled in by 7:00 pm.~~ No hole, trench or depression on the **beach strand** shall exceed 18 inches in depth and five (5) feet in width.

(Council notes - wants regulations pertaining to shovels metal/plastic.)

§95.07 PLACING OBSTRUCTIONS ON THE BEACH STRAND

Obstructions placed on the **Beach Strand** must abide by the following regulations:

- a. No **Obstruction** may be placed within a thirty (30) foot perimeter of the **front dune line**, any **emergency access** or any **public beach access**.
- b. **Obstructions** shall not be tied together.
- c. **Obstructions** shall be separated by a minimum of ten (10) feet.
- d. **Obstruction** anchors or tie downs must be located within the foot print of the **Obstruction**.
- e. **Obstructions** shall be set at least ten (10) feet from any **sea turtle nest**.
- f. All **Obstructions** shall be removed from the **Beach Strand** when the sustained wind speed is 17 mph.
- g. **Obstructions** that are vacant for more than three (3) hours will be deemed abandoned and removed from the **Beach Strand**.
- h. No **Obstructions** shall be erected before 7:00 am.
- i. All **Obstructions** shall be removed from the **Beach Strand** by 7:00 pm.

(Council notes – b, c & h – changed obstructions to tents, shading devices or canopies)

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g. Enforcement is going to be an issue.

h & i – combined

Review a - (30) ft perimeter; restricting tent size; means of identification for personal tents; banning athletic equipment (nets, etc.))

§95.08 PETS ON THE BEACH STRAND

All pets shall at all times be leashed and under the control of a responsible person. Pets shall at all times be restrained by a leash no longer than ten (10) feet in length. Pets shall not be permitted on the **beach strand** beginning the Friday before Memorial Day through Labor Day during the hours of 8:00 A.M. and 6:00 P.M.

Council notes – Change hours to reflect when beach patrol on duty 7:00 am and 7:00 pm

§95.09 ANIMAL DEFECATION

An owner or person having custody of any animal shall carry in plain view bags and utensils to promptly remove and dispose of all feces left by the pet and shall promptly remove said feces left by said pet **from public property and private property not owned by said person.** ~~An owner or person having custody of any animal shall make every effort to minimize defecate on the **beach strand**, a public street, access way, sidewalk, park or any other public grounds unless said defecation is removed immediately.~~

§95.10 OPEN BURNING ON THE BEACH STRAND PROHIBITED

It shall be unlawful for any person to start, kindle, operate or maintain any open fire including barbecue, charcoal grill, fire pit or fireworks of any type **on Beach Strand.**

§95.11 NOISE

It shall be unlawful for any person to create or assist in creating any unreasonably loud, disturbing sounds levels on the **beach strand**, taking into consideration volume, duration, frequency and other characteristics of the sound.

§95.12 LEAPING FROM COMMERCIAL FISHING PIER PROHIBITED

It shall be unlawful for any person to jump, dive, leap or in any way propel his or her body from any commercial fishing pier within the town at any time. **(review adding municipal docks/piers)**

§95.13 PYROTECHNICS

It shall be unlawful for any person to be in possession of, using or allowing the use of any of the following pyrotechnics on the **beach strand** or within Town limits:

- (A) Wire sparklers consisting of wire or stick coated with non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition, including those containing 100 grams of mixture per item or less; and/or

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- (B) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, which do not detonate or explode, do not spin, are hand-held or ground-based and which cannot propel themselves through the air, contain not more than 75 grams of chemical compound per tube or not more than a total of 200 grams if multiple tubes are used.

(Add state law information)

§95.14 LASER POINTERS

It shall be unlawful for any person to focus, point, shine or otherwise direct the beam of a laser pointer or other similar device at another person or any object with the intention of or the result of directing the beam to another person, in such a manner as to harass, annoy or place in fear of bodily harm the person. It shall also be unlawful for any person to aim a laser pointer into the sky or at any moving or stationary vehicle.

§95.15 RIDDEN ANIMALS PROHIBITED

Animals deemed large enough to be ridden by a person are prohibited on the **beach strand**. No person shall ride an animal on the **beach strand**.

§95.16 PUBLIC NUDITY

It shall be unlawful for any post-adolescent female to willfully **expose her breasts** on any public beach, any public street or in any public park. It shall be unlawful for any person to appear on any public beach, any public street or in any public park in a state of dress or undress so as to expose to the view of others the human male or female pubic area, pubic hair, anus, vulva or buttocks with less than a fully opaque covering. (Review for simplification)

Sanctuary

§95.25 SEA TURTLES

All areas within the town limits above the mean low water mark of the Atlantic Ocean and extending therefrom to the primary **dune** are hereby declared to be a Sea Turtle Sanctuary.

It shall be unlawful within the Sea Turtle Sanctuary for any person to willfully take, disturb or destroy any sea turtle or their nests or eggs. Furthermore, between May 1 and November 1 of each year, there shall not be allowed after dark any use of the Sea Turtle Sanctuary other than pedestrian traffic, except town authorized **vehicles**, emergency **vehicles** and commercial fishing activities as specifically allowed by law.

95.26 BIRDS, WATER BIRDS AND OTHER WILDLIFE

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It shall be unlawful for any person on the waters of the town and its extraterritorial jurisdiction to chase, harass, molest or disturb any wildlife, except when lawfully angling for, hunting or trapping the wildlife.

Surfing, Sailing, Boating and Personal Watercraft Regulations

§95.30 PERSONAL WATERCRAFT REGULATIONS

(Review 95.30 and state law to determine if more restrictive should be added)

At the time of purchase, a dealer in **personal watercraft** shall require the buyer of a **personal watercraft** to receive instruction addressing safety operations of the watercraft.

The restrictions for operation of a **personal watercraft** shall be the same as described in NCGS §75A-13.3(b), except that only persons at least 14 years of age, but under 16 years of age, may operate **personal watercraft**, pursuant to subparagraphs (1) and (2) of that statute.

All persons operating or riding on such devices shall wear a Coast Guard approved personal flotation device.

In all waters of the town and its extraterritorial jurisdiction, no person may operate a **personal watercraft** in excess of **headway no wake** speed, which shall not exceed six mph, within 50 feet of posted water bird sanctuaries or management areas or within 25 feet of the marsh or shore within the Intracoastal Waterway.

It shall be unlawful for any operator of a **personal watercraft** on the waters of the town and its extraterritorial jurisdiction to chase, harass, molest or disturb any wildlife, except when lawfully angling for, hunting or trapping the wildlife.

The operation of any **personal watercraft** within the boundaries of the town and its extraterritorial jurisdiction is hereby prohibited, except for operation in the Intracoastal Waterway the main channel through Tubbs Inlet from the south end of Big Narrows to the Intracoastal Waterway and the Atlantic Ocean beyond 750 feet from the water's edge or any pier. (Review this location provision and make it right)

The operation of the watercraft, in the allowed areas, shall be permitted only between **7:00 a.m. sunrise** and sunset on any given day.

It shall be unlawful for any person to launch or recover any **personal watercraft** from the beach on the Atlantic Ocean within the boundaries of the town and its extraterritorial jurisdiction.

Personal watercraft must move at "no wake speed" through posted areas.

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The above prohibitions shall not apply to law enforcement officials or rescue officials while engaged in ocean rescue or law enforcement.

A **personal watercraft** livery owner or the livery's agent or employee shall:

- (1) Require positive identification from all renters;
- (2) Post **personal watercraft** regulations;
- (3) Require all renters to read the regulations;
- (4) Require all rents to sign a rental contract, containing a clause stating that the renter has read and understood all applicable safety regulations; and
- (5) Instruct all renters in the safe operation of the **personal watercraft**.

§95.31 SURFING, KAYAK, RAFT, CANOE AND BOOGIE BOARD REGULATIONS
It shall be unlawful to surf in the Atlantic Ocean adjacent to the Town of Sunset Beach between 5th Street and 32nd Street.

It shall be unlawful to surf in the Atlantic Ocean adjacent to the Town of Sunset Beach within its boundaries without a leash attached to the surfer while the surfer is in the water, which leash may be no longer than six (6) feet.

It shall be unlawful to kayak, raft, canoe or use boogie boards within 100 yards of any ocean pier (except for the use of rafts in shallow water by children with parental supervision)

It shall be unlawful to surf, kayak, raft, canoe or use boogie boards in or about the Atlantic Ocean or other waterways adjacent to the Town of Sunset Beach within its boundaries without due caution and in such a manner as to endanger any person or property.

Council notes – Consider adding kayak, raft, canoe and boogie board restriction for the same area as surfing from May – October. Consider narrowing the restricted area to 1st Street and equivalent on west end from November to April.

Surf and Net Fishing

§95.40 SURF AND NET FISHING REGULATIONS
It shall be unlawful to Surf Fish in the Atlantic Ocean adjacent to the Town of Sunset Beach between 5th Street and 32nd Street.

Council notes - Consider narrowing the restricted area to 1st Street and equivalent on west end from November to April.

Whenever engaged in Surf Fishing along the **beach strand**, all bait, tackle and any other fishing paraphernalia shall be maintained in a manner to not attract birds, shall be removed from the beach and the beach left in a clean and sanitary condition.

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Whenever engaged in net fishing along the strand, all fish, crabs, or debris removed from the water when the net is pulled shall be removed from the beach and the beach left in a clean and sanitary condition.

(Add fishing requires a permit language)

Navigational Channel and Canals

§95.50 ESTABLISHMENT OF NAVIGATIONAL CHANNEL

A 30-foot navigational channel is hereby established in the feeder canal from Cobia Street eastwardly to a line extended across said canal, which line is perpendicular to the northern line of Lot 22, Block 14-R, Sunset Beach, as shown in Map Book H at Page 358 of the Brunswick County Registry and which line begins at the mid-point of said northern line of Lot 22. A 40-foot navigational channel is hereby established from said line eastwardly to Jinx Creek.

Council notes – Consider moving 95.50 to definitions and define all of the canals in the definitions also. Need to add channel and canals information for depth, pier head alignment, dredging, assessment, etc.

§95.51 OBSTRUCTION OF CHANNEL AND CANALS

It shall be unlawful for any person to string or place a net or other device across any canal or navigable waterway within the town or to place any other device or apparatus in the canals or waterways so as to obstruct or impede passage therein.

§95.52 CONSTRUCTION OF PIERS

No person shall build, place, erect, or cause to be built, placed, or erected any piling, post, pier, dock or similar structure within five feet of the navigational channel as established.

No pier or dock shall be constructed within the feeder canal without an approved permit issued by the building inspector in accordance with the requirements of North Carolina Building Code.

§95.53 REGULATING AND CONTROLLING DEBRIS AND MATERIALS RESULTING FROM BOATING ACCIDENTS

The owner, lessee, operator or other responsible party, in charge of any vessel or boat which is involved in a boating collision or other boating accident or other damage in the Atlantic Ocean or the Atlantic Intracoastal Waterway adjacent to the town, shall remove all debris or other material resulting from the collision or accident within the town's boundaries or within its extraterritorial jurisdiction, in a prompt and reasonable manner.

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If the responsible party fails or refuses to remove all debris or other material resulting from the collision in a prompt and reasonable manner the town shall notify the party to remove all debris and other material within 48 hours from the notification.

If the responsible party fails or refuses to remove all debris and other material within the specified time, the town may summarily remove the debris or other material at the expense of the responsible party. The responsible party shall make immediate payment to the town for the expenses upon demand. If the responsible party does not pay upon demand, the expenses shall be a lien upon any property owned by the responsible party which is situated within the corporate limits or extraterritorial jurisdiction of the town, including any salvageable material resulting from the boating collision or boating accident and may be collected as unpaid taxes.

Fines and Enforcement

99.01 ENFORCEMENT

99.02 95.99 FINES AND PENALTIES

Notwithstanding section 10.99, violation of any section of Chapter 95 shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if said civil penalty is not paid within 72 hours after being cited for the violation. The civil penalty for each separate or distinct offense is as follows:

		Lou	Carol
95.02	\$ _____	\$300	\$50
95.03	\$ _____	\$200	\$100
95.04	\$ _____	\$50	\$50
95.05	\$ _____	\$50	\$50
95.06	\$ _____	\$25	\$50
95.07	\$ _____	\$100	\$50
95.08	\$ _____	\$50	\$50
95.09	\$ _____	\$100	\$100
95.10	\$ _____	\$200	\$100
95.11	\$ _____	\$50	\$50
95.12	\$ _____	\$50	\$50
95.13	\$ _____	\$300	\$100
95.14	\$ _____	\$200	\$50
95.15	\$ _____	\$100	\$50

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95.16	\$ _____	\$100	\$100
95.25	\$ _____	\$100	\$100
95.26	\$ _____	\$100	\$50
95.30	\$ _____	\$75	\$50
95.31	\$ _____	\$50	\$50
95.40	\$ _____	\$50	\$50
95.50	\$ _____	Delete	Delete
95.51	\$ _____	\$100 Plus Removal	\$50
95.52	\$ _____	\$200 Plus Removal	\$50
95.53	\$ _____	\$300 Plus Removal	\$50

(Recommend fine amounts)