

Beach Ordinance



Town of York, Maine

Most Recently Amended: May 16, 2015

Prior Dates of Amendment: May 19, 2012
November 8, 2011
May 21, 2011
November 2, 2010
May 22, 2010
May 19, 2007

Date of Original Enactment: May 20, 2006

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to amend this Ordinance: May 16, 2015.

Certified by the Town Clerk:

Mary-Corinne Agnew
(signature)

on

June 19, 2015
(date)

BEACH ORDINANCE

PURPOSE

The purpose of this Ordinance is to regulate and control activities on all Beaches within the limits of the Town of York, including but not limited to Cape Neddick, Short Sands, Long Sands and Harbor Beach. Note that the Trustees of Ellis Short Sands Park have full legal authority to manage and control activities in the Park, which includes Short Sands Beach. To fully understand local regulations which apply at Short Sands Beach, see also the Ellis Short Sands Park Ordinances. In the case of conflict between the two ordinances, the more restrictive provision shall apply.

Section 1. Dressing

Dressing, undressing and the changing of clothes are not permitted within the limits of the beach, except in bathhouses or other structures suitable for this purpose. This does not apply to children 5 years old or younger.

Section 2-A. Fires

There shall be no fires of any kind on Cape Neddick Beach, Harbor Beach or Short Sands Beach. On Long Sands Beach there shall be no fires of any kind starting on May 15 and ending on August 15. For the remainder of the year, from August 16 through May 14, a wood fire may be permitted if both of the following permits are obtained prior to kindling the fire:

A. Special Event Permit, from the Board of Selectmen.

The following criteria shall apply:

1. The proceeds of any fundraising or sales must go to a charitable organization as defined in MRSA Title 9 §5003(1);
2. Hours for the fire shall not begin earlier than 5:00 PM and shall not end later than 10:00 PM;
3. The sponsor must clean up all debris after the fire is out, and this shall be completed before 1:00 AM.
4. Not more than one fire on the beach shall be permitted within any single 30-day period. The first 30-day period shall commence on August 16th, and subsequent periods shall follow immediately upon conclusion of the prior period, with the last terminating on May 14th.
5. The sponsor must pay in advance for the provision of Police and Fire services at the event. This shall not apply if the Town itself is the event sponsor, or if the Board of Selectmen decides to waive this requirement. The amount to be paid shall be established by the respective Chiefs. An account shall be made for each Department for deposit of such funds, and the Chief shall have authorization to spend such funds to provide such event services.
6. Materials to be burned shall be restricted to those allowed under State law. The event sponsor shall review such requirements with the Fire Chief with jurisdiction.

7. At the time of application, the sponsor shall sign a form, to be provided by the Town, which acknowledges the possibility the event might need to be postponed or cancelled for legal safety reasons, and which commits the sponsor to cooperate with Town officials to address crowd control if this occurs.
8. The sponsor shall provide insurance in an amount equal to the maximum recovery allowed under the Tort Claims Act (\$400,000 as of February 1, 2012, but subject to change if the state law is amended). In addition, the sponsor shall, in writing, agree to indemnify and defend the Town in the event of any legal action resulting from the event. The sponsor shall provide insurance documentation to the Fire Chief as late as noon on the day of the event.

B. Open Burning Permit, from the Fire Chief with Jurisdiction.

In addition to the above requirement to obtain a Special Event Permit, State law (Title 12 M.R.S. §9321-6) requires an Open Burning Permit from the Fire Chief prior to kindling a fire on a beach. The issuance of a Special Event Permit from the Board of Selectmen cannot supersede the Chief's jurisdiction in this matter. Open Burning Permits are not issued prior to the day of the event because the Chief is required to consider the weather and other relevant factors on the day of the event. State law also specifies conditions under which the fire would need to be extinguished after being lit. In short, the sponsor of any event to have a fire on the beach will be dealing with some uncertainty up to and even during the event. If a fire must be postponed or extinguished because of such safety concerns, the sponsor of the event must help the Fire Chief explain to attendees the reasons for such action and must encourage people to respect the Chief's decision. Failure of the sponsor to cooperate in this manner shall be a basis for rejecting future applications for Special Event Permits for beach fires.

Section 2-B. Grills

There shall be no use of grills on Short Sands Beach. On other public beaches there shall be no use of grills by the public, except for an organized function that requests the use of a grill and which meets all the following conditions:

1. The sponsor shall cordon off the area around the grill(s) in order to keep the public back a safe distance, with the particular arrangement to be approved by the Fire Chief with jurisdiction;
2. If food cooked on a grill is to be sold, the proceeds from the event must go to a charitable organization as defined in MRSA Title 9 §5003(1); and
3. The sponsor must obtain a Special Event Permit from the Board of Selectmen.

Section 3. Alcoholic Beverages

No person shall have in their possession any container of alcoholic beverage, on the public beaches.
(Adopted March 18, 1975)

Section 4. Sleeping on Public Beaches

The use of the public beach for sleeping or camping on prohibited between the hours of 12 midnight and sunrise.

Section 5. Surfing

A. Definitions:

Mixed Use Zone: means the area at Long Sands Beach from the road to the sea extending between the southerly side of the existing staircase at Long Sands General Store (Tax Map 31, Lot 98) to the northerly end of the beach and from the northerly side of the existing staircase at Beacon Street to Sun-n-Surf Restaurant (Tax Map 36, Lot 97).

Surf Leash: a urethane cord not less than 5 millimeter in diameter and no greater than 10 feet in length that connects a person to his or her surfboard.

Swim Zone: means the area at Long Sands Beach from the road to the sea commencing at the northerly side of the existing staircase at Beacon Street and extending northeasterly to the southerly side of the existing staircase at the Long Sands General Store (Tax Map 31, Lot 98).

B. Surfing at Short Sands Beach is controlled by the Ellis Short Sands Park Ordinances. At other public beaches, surfing is prohibited from June 14 to and including Labor Day between the hours of 9:00 a.m. and 5:00 p.m. EDT, except as provided in subsection C, below.

C. At Long Sands Beach from June 14 to and including Labor Day between the hours of 9:00 a.m. and 5:00 p.m. EDT:

1. Surfing is prohibited within the Swim Zone.

2. Surfing is permitted within the Mixed Use Zone subject to the following conditions:

(a) A Surf Leash shall be properly engaged at all times when the surfboard is in the water;

(b) Surfers shall maintain a minimum distance of thirty-five feet (35') from any swimmer.

3. On inclement weather days, when there are very few people at the beach, the entire beach can be temporarily classified Mixed Use to allow surfing in all areas at the discretion of the Parks and Recreation Director or his designee.

D. The boundaries of the Swim Zone shall be clearly marked using buoys anchored to permanent moorings and line floats, colored flags, or other methods recommended by the Director of Parks and Recreation.

Section 6. Playing Games

The playing of hard or soft baseball, football, soccer, lacrosse, golf, iron horseshoes or any other games which endanger other persons are prohibited on the beaches from May 1 through October 15 of each calendar year, except by written permission by the Town of York.

Section 7. Removal of Sand, Rocks, and Plant Life

The removal of any sand, rocks, or plant life is not allowed, except that seaweed may be removed by special permission of the Town of York.

Section 8. Motor Vehicles, Aircraft, Etc.

Motor vehicles, aircraft, bicycles and motor scooters are prohibited from being on the public beach areas, except that Town maintenance and emergency vehicles are allowed on all beaches for any emergency and/or maintenance reasons.

Also, the Town may grant special permission for individuals to drive on the beach for the purpose of removing seaweed, lobster traps or for other reasons as determined.

Section 9. Trash Disposal

The disposal of diapers, bottles, cans, cigarette butts, garbage or rubbish of any kind is prohibited on all beaches, except in receptacles placed by the Town along the beaches, for the purpose. Said receptacles shall not be used for disposal of garbage or refuse which has accumulated in any home, cottage, cabin, hotel, motel or other like residence.

Section 10. Animals

REF: See Animal Control Ordinance; Section 10. Public Beach – Restriction

Section 10-A. Closure of Beaches

The Town Manager, or in the Town Manager's absence the Town's Emergency Management Director or the Director of Parks and Recreation, shall have the authority to close a public beach in an emergency in order to protect public health and safety. The order may be issued verbally or in writing, and shall be as narrow or broad as is necessary to protect the public. Town Lifeguards and/or the Police Department shall be responsible for enforcing a closure order.

In this context, “emergency” shall be defined to mean any event which threatens to or actually inflicts damage to people or property and which requires immediate action to mitigate, prevent, control or contain.

Situations where beach closure may be warranted also include, but are not limited to: any time a Town, County or State disaster proclamation is in effect; when sharks are sighted in close proximity to a beach; during times of dangerous rip currents; and when water pollution is excessive. Closures may be limited or partial, such as closing only one beach with excessive pollution rather than closing all beaches, or prohibiting swimming but allowing surfing when strong rip currents exist.

Section 11. Penalty / Violations

Any person who shall knowingly violate any of the provisions of this ordinance, and any person who aids, abets, or assists therein shall, upon conviction thereof, be subject to a civil penalty of \$100.00 for the first offense, \$150.00 for the second offence, and \$250.00 for the third and subsequent offenses.

Section 12. Waiver / Payment of Fines

Any person charged with a violation of this section, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney’s fees, and prosecution costs may apply.

Section 13. Effective Date

This ordinance shall take effect and be in force immediately upon enactment and once established shall cancel and/or supersede any conflicting existing Ordinance as a whole or any part thereof relating to the same subjects.

Section 14. Repeal of Existing Ordinances

This ordinance is intended to replace and repeal the Cape Neddick River Beach Ordinance, the York Beach Village Corporation Ordinances, Chapter XIII and Chapter XXI and the York Harbor Village Corporation Ordinances, Chapter 4.