

TOWN OF KENNEBUNK

BOARD OF SELECTMEN - ORDINANCE REVIEW SUBCOMMITTEE

TUESDAY, JANUARY 22, 2019 5:30–6:30 P.M. *

KENNEBUNK TOWN HALL – THIRD FLOOR

AGENDA

1. Call to Order
2. Discuss the following Ordinances:
 - Changes: 2-3 One-Way Prohibited Traffic
 - Changes: 3-5 Public Beaches
3. Adjourn

* Note: The Board of Selectmen's Regular Meeting begins at 6:30 p.m. in Room 301.

Selectmen Committee Members: Christopher Cluff, Shiloh Schulte, Wayne Berry

*Staff: Town Manager Michael Pardue, Finance Director Joel Downs
and Town Clerk Merton Brown*

2-3 ONE-WAY AND PROHIBITED TRAFFIC (DRAFT January 16, 2019)

3.1 It shall be unlawful to operate any vehicle upon or along Curtis Court in a southerly direction from the Town of Kennebunk Parking Lot to Main Street. (10-26-1971)

3.2 It shall be unlawful to operate any vehicle upon or along Garden Street in an easterly direction. (10-26-1971)

3.3 It is unlawful for any truck to drive on Chase Hill Road unless it is destined for a location on that street. (02-22-11)

3.4 It shall be unlawful for the operator of any motor vehicle to enter Devonshire Lane from Route 35 when proceeding in an easterly direction. Any person, firm or corporation who violates any provision of this section upon conviction, shall be punished by a fine as set by the Board of Selectmen's fee schedule together with costs to be used by the Municipality of Kennebunk. (05-08-1979; 06-12-02)

3.5 Prohibited Traffic on Town Property

3.5.1 It shall be unlawful for any person or persons to operate a motor vehicle, as defined in 29 M.R.S.A., Section 1, subsection 7, upon any of the below listed Town properties. This prohibition shall not pertain to any portions of these properties which are paved for motor vehicle traffic, nor shall it pertain to maintenance vehicles operated by the Municipality or by public utilities needing access to their property, nor shall it pertain to rights-of-way across said property.

3.5.2 The following Town properties shall be covered by this Ordinance:

A) The former "Kennebunk Seashore Railroad Line" otherwise known as the "Bridle Path" so-called, commencing at its intersection with Railroad Avenue to the intersection of the Sea Road as it passes the Webhannet Golf Course.

B) All Town property extending from the end of Plummer Street to the Kennebunk River known as "Wonderbrook Park," so-called.

C) All Town property in the Wiggin's Pond, Wiggins Pond Lane area.

D) Harbor Playground, Park Street.

E) West Kennebunk Fields, Holland Road.

F) Lower Village Field, School Street.

G) All Town properties lying between the Boston & Maine Railroad and the River Bend Woods development.

H) The portion of the Eastern Trail that is accepted by the Eastern Trail Maintenance District and located within the Town of Kennebunk. (06-21-2011)

I) The portion of Emmons Road between Sparrow Drive and the Eastern Trail

3.5.3 Any person, firm or corporation who violates any provision of this section shall, upon conviction, be punished by a fine as set by the Board of Selectmen's fee schedule together with costs for use of the Municipality. (06-19-1984; 06-12-02)

3.5.4 Fees shall be shown on a fee schedule set by vote of the Board of Selectmen each year, after notice and hearing. (06-12-02)

3-5 PUBLIC BEACHES (DRAFT JANUARY 16, 2019)

I) STATEMENT OF PURPOSE

The purpose of this ordinance is to provide for the safety, enjoyment, health and welfare of all persons using any public beach located in the Town of Kennebunk by authorizing, among other things, the closure of, and the removal of persons from the Town beaches and adjacent waters due to unsafe or hazardous conditions, including, but not limited to, dangerous surf or wave action or unhealthy water quality.

The purpose is to further provide a means of maintenance, operation and protection of the public beaches and to provide a family oriented atmosphere at an environmentally friendly and enjoyable public beach for residents, residents' visitors and land/property owners of Kennebunk.

This Ordinance is adopted pursuant to Municipal Home Rule ordinance authority and M.R.S.A., Title 30-A, Section 3001.

II) ADMINISTRATION, AUTHORITY, APPLICABILITY, EFFECTIVE DATE

- A) Administration of the public beaches will be by the Municipal Officers. They are responsible for the maintenance, operation and general stewardship of all of the Kennebunk public beaches.
- B) Authority to act: The Municipal Officers shall oversee the public beach areas and shall adopt, after public notice and hearing, establish, and as necessary, revise, any additional rules and regulations that they may deem necessary to maintain safety. These safety rules and regulations, not inconsistent with this Ordinance, shall be posted in a conspicuous place at the public beaches and shall have the full force and effect of the law.
- C) Applicability: This Ordinance shall apply to Town owned property at all public beaches.
- D) Effective Date: This ordinance took effect upon adoption by the Town of Kennebunk on 6-11-2003.

III) DEFINITIONS

- A) 'Town' is the Town of Kennebunk, Maine.
- B) 'Municipal Officers' means the Board of Selectmen
- C) 'Public Beaches' are the three public beaches owned by the Town, Kennebunk Beach, Middle Beach and Gooch's Beach located along Beach Avenue. ~~and the portion of Parson's Beach that is leased to the Town for use as a public beach.~~
- D) 'Adjacent waters' shall mean the ocean waters along the shoreline of the Town beaches and extending seaward to the edge of the intertidal zone, as defined by state law.
- E) 'Enforcement Authority' shall mean the Town Manager, Health Officer, Fire Chief, Police Chief or any of his designees, any lifeguard employed by the Town, or any other designated Town Official duly authorized to enforce the provisions of the Ordinance or Town regulations.

- F) 'Warning flags' shall mean flags that are posted at the lifeguard stations:
A **red flag** means the beach is closed to swimming and/or water contact.
An **orange flag** indicates that all beaches are closed to swimming and all water contact except surfing only
A **yellow flag** indicates an advisory notice that there is a potential health risk or dangerous surf conditions – "Swim at Your Own Risk"..
A **green flag** indicates the beach is open for swimming and water contact.

IV) GENERAL RULES

The following rules apply to the beaches:

Conduct and Use

- 1) Regular opening and closing dates for swimming with life guards on duty shall be established by the enforcement authority and approved by the Municipal Officers.
- 2) Picnicking shall be allowed on the public beaches.
- 3) Fires: Fires shall not be allowed on the public beaches, with the exception of cooking fires only on the Middle Beach side of Narragansett Point by permit only obtained from the local Fire Department.
- 4) Offensive behavior: No person shall engage in any indecent language or loud noise which would be offensive to any reasonable person or engage in any disorderly conduct or behavior tending to breach the public peace.
- 5) Children under 12 years of age must be accompanied by someone 16 years of age or older.
- 6) Seasonal activities and use other than swimming and sun bathing shall be as permitted by the enforcement authority, as consistent with the Ordinance's Statement of Purpose.
- 7) No sand, gravel or rocks shall be removed from the beach areas.
- 8) Marine life may not be harvested for commercial purposes.
- 9) Except as otherwise provided for by state law, the Selectmen may impose further limitations on the use of the Town's public beaches for surfing, kayaking and other recreational activities.
- 10) No person, firm or entity shall operate a private business or other entity on any Town public beach in a manner that unreasonably (a) interferes with the general public's enjoyment and use of the beach; (b) poses a safety risk to the participants or the general public; or (c) causes damage to public property. **Any for-profit private business operating on a Town public beach must obtain a peddler's permit as set forth in 6-1 of this Ordinance.** The Municipal Officers may impose further limitations on the operation of private businesses and other entities on Town public beaches as necessary to enforce this provision.

Sanitation

- a. No bottles, cans or other trash shall be left on the beaches. Users shall carry out what they carried in.
- b. Commencing June 15 and ending on the day following Labor Day of each year, it shall be unlawful for animals of any kind to be on any public beaches of the Town between the hours of 9:00 AM and 5:00 PM, prevailing time. This is not to be construed as limiting the use of seeing eye or disability assistance animals.
- c. No trash whatsoever will be put in the portable toilets.
- d. Children shall not be allowed to swim in disposable diapers. All children who require diapers are required to wear rubber pants that will contain all human waste.

Safety

- 1) No motorized watercraft shall be moored, launched or beached.
- 2) There shall be no water skiing permitted from the beach.
- 3) No motor vehicle or motor driven cycle, bicycle, motor cart, or any motor driven or otherwise propelled contrivance shall be allowed to be placed or in any way operated or moved on or along any of the public beaches within the Town.
This prohibition shall also include horses and horse-drawn vehicles during the period 15 May to 15 September, but shall exclude all emergency type vehicles. Any exception for any emergency shall be granted only by the Municipal Officers.
- 4) All parking shall be in compliance with Section 2-5 Beach Parking Permits Ordinance of the Town of Kennebunk Ordinances.

Prohibited Activities

The following activities are prohibited:

- 1) The use of soap, shampoo or other cleaning agents.
- 2) The use of glass containers.
- 3) Activities which endanger persons or willful damage to any public property at the beaches, including and without limiting to, portable toilets, benches, trees, brush or other vegetation.
- 4) The use of tents or overnight camping.
- 5) Possession or consumption of alcoholic beverages and illegal drugs.
- 6) Smoking on any public beach excluding the designated smoking area.
- 7) Commercial soliciting.
- 8) Any type of fire on the public beaches, with the exception of cooking fires only on the Middle Beach side of Narragansett Point by permit only obtained from the local Fire Department. Upon obtaining the fire permit and if the activity will involve more than 30 participants, you must complete an application available in the Town Clerk's Office. The intent of the application is to limit the number of users on any particular day and to alert various town departments that the activity is taking place

- 9) There shall be no participation in activities or games employing the use of baseballs, footballs, golf balls or the like, in any beach area between the hours of 9:00 AM and 5:00 PM, prevailing time, nor in any activity which may be detrimental to the use and enjoyment of said beach areas as provided by the Statement of Purpose, or which may be injurious to the public health, safety and welfare.
- 10) No campers, so-called, or vehicles designed for sleeping purposes shall be allowed to remain in beach areas between one-half hour after sunset to one-half hour before sunrise, prevailing time.

Any person, firm or corporation who violates Article IV upon adjudication, shall be punished by a fine as set by the Board of Selectmen's fee schedule together with costs to be used by the Municipality of Kennebunk. Any person cited for a violation may settle and compromise the claim against them by paying the Town the sum as set by the Board of Selectmen's fee schedule. Such payment may be made at the Police Station within 7 days of the time of the alleged offense. 07-23-1985

V) REGULATIONS

- 1) The enforcement authority may recall and remove any person from the water when the person shall be in danger of drowning or becoming imperiled, or may imperil the safety of others, all of which shall be determined in the sole discretion of the life-guards duly appointed by the authority having jurisdiction.
- 2) The enforcement authority may recall and remove from the ocean waters and the surf adjoining the water any person who shall be in the ocean waters at any distance at any time when the condition of the wind, water, weather or a hazard, including the physical or mental condition of the person in the ocean waters, shall be such, in the sole discretion of those personnel, as hereinabove described, as to constitute a danger to the health, life or safety of that person or to other persons within the ocean waters.
- 3) The enforcement authority may recall and remove from the ocean waters and the surf adjoining the water any person at any distance at any time when the condition of the water is unsafe due to rainfall, urban runoff, sewage spills, microbiological contamination, or other public health concerns.
- 4) Beaches can only be closed to surfers by either the Town Manager or the Fire Chief or his designee.

VI) VIOLATIONS and PENALTY

Any person who fails or refuses to comply with any lawful order, discretion or command given under authority of this Ordinance or regulations promulgated

hereunder, or who resists, obstructs or impedes any lawful attempt made under authority of this Ordinance to recall or remove any person from the water, commits a violation punishable by a civil penalty as set by the Board of Selectmen's Fee Schedule payable to the Town together with costs for use of the Town.

VII) ENFORCEMENT

This Ordinance shall be enforced by the Town Manager, Fire Chief and/or his designee(s), Health Officer, Police, any lifeguard employed by the Town, or any other designated Town Official duly authorized to enforce the provisions of this Ordinance or regulations promulgated hereunder.

VIII) SEVERABILITY

Should any section or provision of this Ordinance or regulations promulgated hereunder be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not invalidate any other section or provision of this Ordinance.

IX) AMENDMENT

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

Adopted by Town Meeting Vote: 06-11-2003; AMENDED 06-21-2011; AMENDED 06-09-2015