

Chapter 12.12

SEAPOINT AND CRESCENT BEACHES\*

AMENDED DRAFT 9/25/07

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\* Prior history: Prior code §§ 9-21—9-29, 9-31—9-33 and 9-35 as amended by Ords. 8-90, 3-97 and 4-03.

**12.12.010 Definitions.**

As used in this chapter:

“Animal” means and includes any living creature that is not a human but excludes any animal used for a guide or sight-seeing dog.

“Authorized vehicle” means motor vehicles of the municipality of Kittery, state of Maine, or any public service corporation vehicle, ambulance or emergency vehicle.

“Camping” means the use of a tent or other temporary structure.

“Crescent Beach” means and includes all land bounded within the following: south and east by the Atlantic Ocean, northerly by the saltmarsh and Seapoint Beach and westerly by other owners.

“Dangerous weapon” means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is capable of producing death or serious bodily injury. If the person intentionally presents, in a covert or open manner, a thing as a deadly weapon, it shall be presumed that the thing is a deadly weapon.

“Firearm” means any weapon, either loaded or unloaded, which will expel a projectile by the action of an explosive and includes any such weapon commonly referred to as pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be readily made into a firearm by the insertion of a firing pin or other similar thing in the actual possession of a person is a firearm.

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“Motor vehicle” means any self-propelled vehicle not operative exclusively on tracks and includes snowmobiles and motor-driven cycles including motorcycles and mopeds.

“Owner” means any person, firm or corporation holding title to a vehicle or having exclusive right to the use thereof.

Seapoint Beach. “Seapoint” means and includes all land bounded within the following: on the south and east by the Atlantic Ocean, on the north by the land now or formerly of Albert Kerr, on the west by the saltmarsh, other owners and the easterly edge of Cutts Island Road. Seapoint Beach shall include that area known as Thaxter’s Point. (Ord. 7-03 (part))

“Town Resident” means any person whose primary domicile is in the Town of Kittery. Town residency requirements can be satisfied by any one of the following :

- Maine driver’s license with Kittery address
- State of Maine ID with a Kittery address
- Utility bill showing Kittery service location
- Rent or lease agreement for premise located in Kittery.
- Property Tax Bill for Kittery property.

An owner of Real Property who is paying property taxes to the Town of Kittery and whose primary domicile is in another community is considered a Town Resident under this ordinance.

**12.12.020 Disorderly conduct.**

No person shall engage in disorderly conduct within Seapoint or Crescent Beach. Disorderly conduct as used herein shall include but not be limited to the making of loud and unreasonable noises; the activating of any device or explosive substance which releases noxious or offensive odors; knowingly accosting, insulting, taunting or challenging any person with offensive, derisive or annoying words or gestures, or other physical conduct which would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of a person so accosted, insulted, taunted or challenged. (Ord. 7-03 (part))

**12.12.030 Vehicular use—Parking restrictions.**

- A. No person shall drive or park any motor vehicle ~~or motor-driven cycle~~ other than an authorized vehicle on Seapoint or Crescent beaches, shore or bank. No bus shall be operated, driven or parked anywhere within the area defined as Seapoint and Crescent beaches.
- B. ~~The parking lot at the end of Seapoint Road immediately adjacent to Seapoint Beach is restricted to vehicles bearing valid Kittery solid waste stickers. This restriction does not apply to vehicles enumerated in Section 12.20.010(A) and (B) of Chapter 12.20. Use of the beaches and parking in all areas are available for Town residents and non-residents from October 1<sup>st</sup> to May 14<sup>th</sup> only. Non-resident parking and use of the beaches from May 15<sup>th</sup> to September 30<sup>th</sup>, inclusive, is prohibited. This restriction does not apply to vehicles enumerated in Section 12.20.010(A) and (B) of Chapter 12.20 and section 12.12.150.A.~~

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- C. Parking is allowed on the south side of Seapoint Road from its intersection with Thaxter Road a distance of five hundred fifty (550) feet in an ~~easterly~~westerly direction, subject to the following restrictions:
1. All vehicles must be parked off the paved roadway surface;
  2. May 15th to September 30th, inclusive, all parking is limited to vehicles bearing valid Kittery solid waste stickers or guest permits issued by the Kittery Police Department. or seasonal permit stickers;
  3. October 1st to May 14th, inclusive, parking is allowed without stickers.
- D. Tagging and/or towing of violators is utilized to enforce the parking restrictions in subsections B and C above.
- E. The Kittery Municipal Office Issues.
1. Solid waste stickers for Town residents and non-resident property taxpayers and active military personnel stationed at the Portsmouth Naval Shipyard and residing in Military housing. There is no cost for the initial sticker.
  2. ~~Seasonal permit stickers for active military personnel stationed in Kittery and residing in military housing. There is no cost for the initial sticker.~~
  3. ~~Seasonal permit stickers for non-residents not listed in subsections (C)(1) or (C)(2) above. A total of one hundred (100) permits are available at a cost of one hundred twenty-five dollars (\$125.00) per permit, issued on a first come, first served basis.~~
- All permits must be affixed in the manner set forth in Section 8.04.040(D) of Chapter 8.04. (Ord. 7-03 (part))

**12.12.040 Public indecency.**

No person shall engage in public indecency within Seapoint or Crescent beaches. As used in this chapter, public indecency shall be defined as set forth in Title 17-A, Section 854 of the Maine Criminal Code. (Ord. 7-03 (part))

**12.12.050 Littering.**

No person shall throw, drop, deposit, discard or otherwise dispose of litter within Seapoint and Crescent beaches except in a litter receptacle. (Ord. 7-03 (part))

**12.12.060 Disturbing topography.**

No person shall remove, molest, injure or otherwise damage anything natural or physical within Seapoint and Crescent beaches. This provision is not intended to regulate the removal of seashells and driftwood, seaweed and scientific samples. (Ord. 7-03 (part))

**12.12.070 Drinking.**

No person shall drink or consume any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mix liquors upon Seapoint and Crescent beaches. (Ord. 7-03 (part))

**12.12.080 Animals.**

No ~~domestic~~ animal shall be allowed within Seapoint or Crescent beaches except that dogs, while under the control of their owner or keeper, are allowed on Crescent and Seapoint beaches at times other than between the hours of 10 a.m. to 5 p.m. from June 15th through September 10th of each year. This limitation ~~shall does~~ not apply to guide or Seeing Eye dogs when used as such.

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At no time shall the owner or keeper of any dog allow that dog to run at large on Crescent or Seapoint beaches or enter upon any publicly owned saltmarsh immediately adjacent to Seapoint or Crescent beach. From May 15<sup>th</sup> and September 30<sup>th</sup>, inclusive, only dogs licensed to Town residents are allowed on Seapoint and Crescent Beaches.

A pooper scooper rule is in effect for dogs. ~~Owners and keepers must take their dog waste with them when they leave the beaches. (Ord. 7-03 (part))~~ Owners and keepers must properly dispose of animal waste either by placing it in supplied receptacle(s) or if one is not supplied by taking it with them when leaving the beaches.

**12.12.090 Fires.**

No person shall start or allow any fire to burn within Seapoint or Crescent beaches except in suitable facilities provided by the municipality or where permission has been obtained from the municipal fire chief, town forest fire warden, or their designees. A permit will not be required for the use of portable stoves which are fueled by propane gas, sterno, or briquettes. In the event that any cooking or other fire or burning herein allowed is undertaken by any person, said person before leaving such fire shall totally extinguish the same. (Ord. 7-03 (part))

**12.12.100 Entering upon saltmarsh.**

No person shall trespass or enter upon the publicly owned saltmarsh immediately adjacent to Seapoint or Crescent beaches except for educational or scientific purposes and only after approval is granted by the Kittery town council or its duly designated agent(s). Requests shall be made to the Kittery town clerk, who shall refer all such requests to the Kittery town council or its duly designated agent(s).

Public notice shall be given by locating signs conspicuously along the saltmarsh notifying the public of this limitation. (Ord. 7-03 (part))

**12.12.110 Windsurfers prohibited.**

No person shall engage in windsurfing in the waters of Crescent and Seapoint Beaches between June 15<sup>th</sup> and September 10<sup>th</sup> of each year except in those areas duly authorized and designated by the Kittery town council. Public notice of such designated areas shall be conspicuously posted in the beach parking lot or other conspicuous place or places. (Ord. 7-03 (part))

**12.12.120 Jet skis prohibited.**

Jet skis are prohibited on the shore or in the waters of Crescent and Seapoint Beaches. (Ord. 7-03 (part))

**12.12.130 Selling prohibited.**

The selling of merchandise or services is prohibited at Seapoint and Crescent Beaches. (Ord. 7-03 (part))

**12.12.140 Camping prohibited.**

Camping is prohibited from ~~12:01 a.m.~~ 11:00 PM. to 6:00 a.m. (Ord. 7-03 (part))

**12.12.150 Hours of operation.**

A. Seapoint and Crescent Beaches and all parking areas are closed to the general public between the hours of 11:00 p.m. and 3:00 a.m., ~~May 15th to September 30th, inclusive.~~

~~B. The Kittery solid waste sticker parking lot adjacent to Seapoint Beach and the nonresident parking lot are closed to the general public between the hours of 11:00 p.m. and 3:00 a.m., May 15th to September 30th, inclusive,~~ with the exception of vehicles used in their official capacity by agents ~~or members of or employees:~~

1. The town of Kittery;
2. Public utilities;
3. Emergency services; and
4. Contractors providing service to or on behalf of the above.

~~EB.~~ The owners or operators of any motor vehicles found in violation of this subsection will be summoned and the vehicle will be towed at the owner's expense, as provided in subsection A of Section 10.12.040. (Ord. 7-03 (part))

C. Seapoint and Crescent Beaches are restricted for use by Town residents and their guests from May 15<sup>th</sup> to September 30<sup>th</sup>, inclusive, subject to restrictions provided by ordinance.

**12.12.160 Beach closure.**

The town manager is authorized to close the beaches to bathing when quality testing determines the water to be unhealthy for humans. The enforcement and penalty portion of this chapter does not apply to this section. (Ord. 13-05 (part))

**12.12.170 Enforcement and penalty.**

This chapter is enforced by the Kittery police department. Any person who violates any provision of this chapter commits a civil violation for which a penalty of not more than one hundred dollars (\$100.00) may be adjudged. For a violation of Section 12.12.030, there shall be a fine of ~~twenty-five dollars~~ fifty dollars (~~\$25.00~~50.00). All penalties recovered shall accrue to the benefit of the town. (Ord. 13-05 (part); Ord. 7-03 (part))