2014

Town of Surry Harbors and Waterways Ordinance

Surry (Me.)

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TOWN OF SURRY
HARBORS AND WATERWAYS ORDINANCE

EFFECTIVE / /2014

Attest Town Clerk:
I. GENERAL PROVISIONS

A. Purpose of Ordinance
This Waterways and Harbor Ordinance is hereby established to regulate marine activities within the fresh and tidal waters of the Town of Surry, Maine in order to ensure safety to persons and property, promote availability and use of valuable public resources, and to create a fair and efficient framework for the administration of these waters.

B. Legal Authority
The legal authority for the establishment of this Ordinance and the provisions provided herein is provided by the municipal home rule process of Title 30-A M.R.S.A. and Title 38 M.R.S.A., which are available at the Town Office. The provisions of this Ordinance shall be liberally interpreted in order to meet the objectives of those statutes and the intent of this Ordinance.

C. Conflict with Other Ordinances and Regulations
Whenever a provision of this Ordinance conflicts with another ordinance of the Town of Surry or State or Federal regulation, the stricter provision shall be applied. Nothing contained herein shall be construed to conflict with the lawful jurisdiction of the United States Government with respect to enforcement of navigation, shipping or anchorage and associated laws of the United States or any valid laws or regulations of the State of Maine.

D. Validity and Severability
If any provisions or clause of this Ordinance or application thereof to any person, persons, or circumstances is found to be invalid, then such invalidity shall not affect any provisions or applications of the Ordinance which can be effectuated without the invalid provision or application. To this end, provisions of this Ordinance are declared severable.

E. Effective Date
This Ordinance shall take effect and be in force from the date of its adoption by the Town at Town Meeting and all previous Harbor Ordinances and public beach use ordinances are hereby repealed.

F. Penalties
Violations of any of the provisions of this Ordinance shall be deemed civil violations. They are enforceable by the Harbor Master or any other law enforcement officer with jurisdiction in the Town of Surry by a civil action in the District Court to recover such relief, fees, fines and penalties as are provided for in Titles12, 30-A and 38 M.R.S.A.

G. Surry Waters
Surry Waters are: Toddy Pond, Upper and Lower Patten Pond, Gold Stream Pond, Patten Stream, Meadow Brook, Meadow Stream, Sandy Brook, Emerton Brook, Mill Steam, all Surry tidal waters Surry Tidal Harbors.

H. Surry Tidal Waters
All waters along the coast of Surry which are affected by tide and are within the Surry town limits

I. Surry Tidal Water Harbors
1. The Surry Tidal Water Harbors are shown on attached charts A & B; which indicate the limits of the Patten Bay Harbor and the Carrying Place Harbor. The limits for each harbor include the waters and shore areas below the mean high water line of each area (the inner limit) and the inshore of the line (outer limit), as described below. (Map numbers refer to the Tax Maps of the Town of Surry) The GPS Coordinates for these locations will be added to this ordinance and updated exhibits will be attached as soon as they are available.

2. Outer limit line of Patten Bay Tidal Water Area: A straight line extending from the northern property line of Map 40 lot 36 to the southern property line of Map 29 Lot 23. See Exhibit A attached

3. Outer limit of line of the Carrying Place: A straight line extending from the southern boundary line of Map 19 Lot 3 to the northern line of Map 19 Lot 1 and then 250 feet into the bay (from the mean high water mark) at right angles then North West and southeast until the lines intersect. All moorings should be placed outside this 250 foot limit to allow for public recreational area. See Exhibit B attached.

II. DEFINITIONS:

Anchorage Area: An area of the harbor set aside for the anchoring of Vessels.

Berth: The place where a Vessel lies when at a wharf or pier.

Channel: An area of waterway kept clear of moorings or other obstructions to allow the free passage of Vessels.

Commercial Marine Facility: Any commercial facility within the Limited Residential or CMFA Zone.

Commercial Mooring: A mooring assigned to a Commercial Marine Business as designated by the Town’s Unified Development Ordinance.

Commercial Vessel: A Vessel that generates income and is registered as commercial.

Congested Areas: Those areas of Surry Waters (Salt and Fresh) that are determined by the Waterways Commission and designated by the vote at Town Meeting to be approaching or to have reached saturation of available mooring space.

Fairway: The navigable waters of a harbor or other Waterway.

Float: Any floating structure, other than a Vessel, normally used as a point of transfer for passengers, fishing gear or other goods and not designed for self-propelled navigation.

Littoral Land Owner: A property owner having rights to land in the coastal zone between the limits of high and low tides.

Mooring: A permanent means of securing a Vessel or Float to the bottom in a mooring area. The owner of a mooring may not trespass over private property to reach his/her mooring.
Municipal resident: "Municipal resident" means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year.

Outhaul or Clothesline Mooring: a system with 2 anchors, one on the beach and one in the water connected by a loop of line used to secure a dinghy.

Shorefront Owner: The owner of a parcel of land that borders on that area of Surry Waters off which a mooring is being requested.

Riparian Land Owner: Shall mean the owners of land bordering on a river or other body of water.

Property Owner: Any person owning real estate in Surry.

Waterway: Any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Vessel: A watercraft of any kind including boats, scows, dredges and barges but excluding floats and shellfish, lobster cars or other structures permanently attached to moorings.

III. WATERWAYS COMMISSION

A. PURPOSE:

a. Recommend policies, rules and regulations regarding Surry Waters and public lands adjacent to Surry Waters.

b. Participate in harbor planning, coordinate approved projects and to administer the department budget.

c. Maintain current local marine charts, tide calendars and local notices to mariners on the Town website.

d. Responding to public inquiries, concerns and complaints with regard to Surry Waters. Assist Selectmen with any issues concerning Surry Waters which may arise and make recommendations for improvements to town facilities.

e. Monitor waterway use.

f. Annual review of all existing waterways ordinances for potential revisions.

g. Be available to the Board of Selectmen and the public to discuss any issues which may arise concerning Surry Waters.

h. Monitor the condition of the public piers, floats, utilities and structures for proper and safe operation and repair or coordinate repairs as necessary.

i. Coordinate the seasonal placement/removal and repair of public floats.
B. MEMBERSHIP: The Commission shall consist of volunteer citizens of Surry, seven (7) full time members and as many alternates as apply, but not to exceed five(5), as appointed by the Selectmen for three (3) year terms which will be staggered so as to maintain reasonable continuity.

Terms of Office will expire April 30 of each year, respectively. Any member may be reappointed. To the extent possible, the membership shall be diverse, representing recreational and commercial interests, fresh and salt water shorefront property owners, boat owners and persons not owning watercraft. All members serve without compensation.

C. OFFICERS

1. CHAIRMAN: A Chairman shall be elected annually by the fulltime members of the Commission at its first meeting after May 1 of each year.

2. VICE CHAIRMAN: A Vice Chairman shall be simultaneously elected to act in the absence of the Chairman.

RECORDING SECRETARY: A Recording Secretary shall be elected annually to keep a comprehensive log of items discussed and debated during meetings, conferences, workshops and brainstorming sessions.

D. MEETINGS: The Commission shall hold an annual meeting within thirty (30) days after to May 1, of each year to elect its officers, review existing ordinances and policies, and to conduct any business which comes before it, and report to the Board of Selectmen within thirty (30) days thereafter. The Commission shall convene other meetings on a regular schedule as decided at the annual meeting.

The Chairman, Vice Chairman, in the Chairman’s absence, or the Board of Selectmen may call a meeting at any time subject to the 1 week public posting requirements.

E. QUORUM: A majority of the appointed full time members shall constitute a quorum. If a quorum is not present the Chairman shall appoint an alternate member to sit as a voting member in the absence of a full time member. If two or more alternates are present, then alternates will sit in an alternating order.

F. VOTE: The Commission shall strive to make decisions by mutual consent but none the less by the vote of the majority of members present and voting. In the event that there are an even number of members present and a vote results in a tie, the item will be tabled until the next scheduled meeting.

IV. HARBOR MASTER & DEPUTY HARBOR MASTER: The Harbor Master and Deputy Harbor Master shall be appointed by the Selectmen after consultation with the Waterways Commission on an annual basis.

The Harbor Master and Deputy Harbor Master are prohibited from making arrests or carrying a weapon.

The duties of the Harbor Master and Deputy Harbor Master shall include, but are not limited to the following:

The Harbormaster shall enforce with the assistance of the Marine Patrol, Inland Fisheries and Wildlife or other local law enforcement agency (including officials from Ellsworth, Blue Hill, Penobscot and Orland as needed to address Toddy Pond, Upper and Lower Patten Ponds and Morgan Bay) all federal and state laws, rules and regulations over which he or she has been given jurisdiction, including specifically, but not limited to the provisions of 38 M.R.S.A. Sections 1-13.
The Harbormaster shall maintain appropriate records, logs and files as required, including but not limited to mooring placement records.

The Harbormaster shall provide guidance in the placement of moorings, floats, gangways, wharfs, and their location in the waters of the Town of Surry and ensure that proper maintenance is provided for.

Provide essential and customary courtesy services to the local and visiting public as the position is one of high visibility and may be the only contact between the public and local officials.

Monitor the use of all public boat launching facilities.

The Harbormaster shall be an ad hoc/ non-voting member of the Waterways Commission and should regularly attend the Waterways Commission meetings and inform the Commission of his/her activities as well as provide such available information as may be requested by the Commission and or the Selectmen for the execution of its duties.

V. AMENDMENT OF THIS ORDINANCE
The Town may amend this ordinance as may be required at a Town Meeting, to accommodate certain conditions in which the modification is deemed necessary by a recommendation of the Waterways Commission to the Surry Selectmen or by citizen petition.

VI. ENACTMENT
When duly acted upon by the voters of the Town of Surry, this ordinance shall supersede any and all ordinances pertaining to Surry Waters, harbors and facilities in the Town of Surry previously enacted. Including but not limited to Town of Surry Carrying Place Beach Seasonal Use Ordinance, March 14, 1995, Patten Bay Town Landing Use Ordinance, March 1999 and all Town of Surry Waterways and Harbor Ordinances.

VII. GENERAL REGULATIONS
A. CARRYING PLACE BEACH USE RULE AND REGULATIONS

1. Purpose--- These rules and regulations will be in effect seasonally from May 1 to October 30 of each year. They are intended to provide for the use of land by both commercial and recreational users during the time period described above. By regulating the use of this land and the adjacent water, these regulations are intended to promote safety and proper traffic flow in the beach area. These rules do not excuse any person from the necessity of complying with all other applicable laws and regulations.

2. Area of Jurisdiction and Boundary Markers-
These rules and regulations cover the seasonal use of town owned land located between the southerly bound of Map 19 Lot 1 and Map 19 Lot 3.

Vehicle parking will be available in the three permanent parking areas; one in “The Pines” on the southwest end of the Carrying Place, one adjacent to the "Frog Pond" salt marsh located on the easterly bound of Map 19 Lot 1-1; and the last one is located on the northeastern end of the town owned beach.
Two parking areas primarily reserved for commercial and recreational watercraft users are located at the north and south ends of the road adjacent to the beach. It is requested that parking in the loading and unloading areas should be limited to periods of two (2) hours or less.

There shall be forty-five (45) foot long sections of beach at the southeast and northeast end of the Carrying Place reserved for commercial and recreational watercraft users.

A. **Permitted Commercial and Recreational Watercraft Activities**

Resident commercial and recreational boater outhauls will be allowed in the designated area, three (3) per side in the designated forty-five (45) foot boat use areas and five (5) outhauls will be allowed in the Pines. (Preference will be given to the adjacent property owners owning properties on the west side of the Newbury Neck Road within the area of the beach and the Pines.)

If conflicts arise with the use of outhauls, the Waterways Commission may require an annual lottery to determine their use. The Waterways Commission will monitor the use of outhauls on the public beaches.

Temporary (less than 48 hours) storage of traps, nets, and accessory items is permitted. Temporary beaching of boats or tenders (less than 48 hours) will be allowed. All storage activities will be at the owners risk and must be within the allowed boating use zones. It is requested that owners leave contact information with their property when leaving it at the beach.

B. **Sunbathing and Swimming Areas**

The remaining beach not designated for commercial and recreational watercraft zones may be used for public sunbathing, swimming and picnics. This area will be marked with white, black and orange, 12x59x13mooring buoys, marked NO WAKE ZONE and placed 250 ft from the mean high water mark.

3. **Area Map**

The attached map shall be the official designator of the boundaries of parking and no parking areas. See Exhibit B attached. (Note this map will be updated when the GPS coordinates are available)

**B. PATTEN BAY TOWN LANDING USE RULES AND REGUALTIONS**

1. **Purpose**

The purpose of these rules and regulations are to permit the use of the landing area by the public in a safe and enjoyable manner.

2. **Prohibited uses of the Patten Bay Town Landing Area**

   A) *Overnight Parking without permission of the Harbor Master*

   B) *Overnight camping.*

3. **Launch and Recovery of Vessels**
A) Responsibility for safe and expeditious launching and recovery of vessels at the Patten Bay Town Landing Area rests exclusively with the owner of the vessel.

B) Boats, trailers, vehicles, etc. left in such a manner that interferes with others ability to launch or recover vessels will be towed at owner’s expense.

C) In keeping with the zoning designation for this lot as Commercial Fisheries Maritime Activities, the area to the east of the boat launch shall be reserved for the loading and unloading of lobster traps and commercial fishing related gear. Any gear left for loading or unloading should not be left in this area for a period to exceed 48 hours.

D) Upon completion of launching or recovery operations at the launching ramp, the vehicle and trailer must be removed from the ramp and parked appropriately or removed from the Town Landing. Vehicles, trailers or vessels may be parked for unusual situations for a period not to exceed 48 hours at the sole risk of the owner with the permission of the Harbor Master.

C. ABANDONED WATERCRAFT

When in the opinion of the Waterways Commission, a vessel has been abandoned in the Waterways or Harbors of Surry, they may, after giving such notice as practical, shall direct the Harbor Master to take custody and control of such vessel and remove it, store and or otherwise dispose of it, all at the sole risk and expense of the vessel owner. Reasonable notice of such disposal shall be given by civil service or by publishing notice in the local newspaper.

VI. MOORINGS, PIERS, DOCKS AND WHARFS

All moorings placed in Surry waters are done at the owners risk and must comply with any and all Federal, State and Local Regulations. It is recommended that all moorings be registered with the Maine Department of Conservation, Bureau of Parks and Lands through a submerged lands lease or easement and with the Army Corps of Engineers as may be required.

All moorings and mooring buoys should conform to maritime standards and should to show at all tides from May to October.

All moorings in the waters and harbors of the Town of Surry as of this date are grandfathered.

Stephen Bemis, Selectmen __________________________

William Matlock, Selectmen _________________________

Dale Sprinkle, Selectmen ____________________________
Town of Surry
Mooring Placement Record

☐ Individual  ☐ Commercial  ☐ Guest  ☐ Moored Float

Mooring/Moored Float Owner______________________________________________________________

Resident Address: ____________________________ City _____________St. _______________Zip _______

Non-Resident Address: ____________________________ City _____________St. _____ Zip _________

Home Phone _________________________ Work Phone ________________________ Pager/Cell __________

E-mail (voluntary) ____________________________________________________________

Emergency Contact ___________________________________________ Emergency Phone ______________________________

Vessel Name ____________________________ Length _____________ Vessel Type ____________________________________

Registration or Documentation ____________________________________________________________

I understand that I am solely responsible for the safety of my boat, outhaul, dingy/tender and mooring. I am responsible for setting my mooring and consulting the Harbor Master regarding the size and type of mooring as recommended for the safety said boat and adjacent boats. I agree to comply with all State and Federal Harbor and Waterfront Laws, Rules, Regulations and Ordinances.

Signature __________________________________________ Date _____________________________

Town Use Only

WATERFRONT LOCATION & INFORMATION: MAP#  LOT#
GPS COR.

Carrying Place/Pine s  Outhaul Number _________________ (if applicable)