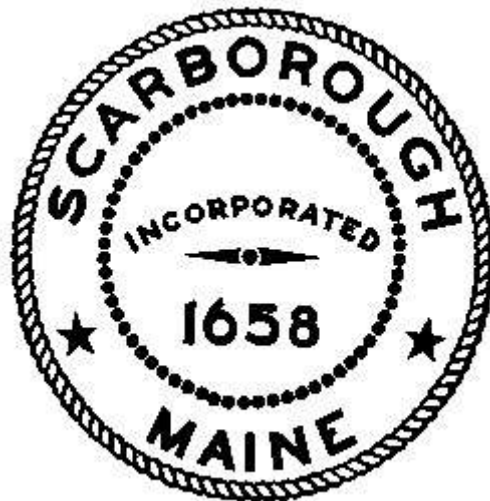


CHAPTER 610

TOWN OF SCARBOROUGH

PIPING PLOVER ORDINANCE



Adopted June 6, 2001
Amended October 2, 2013
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**CHAPTER 610
TOWN OF SCARBOROUGH
PIPING PLOVER PROTECTION ORDINANCE**

1. Purpose.

The purpose of this Ordinance is to avoid or minimize adverse effects on Piping Plovers and their young by protecting their nesting, brooding, fledging, roosting and foraging activities on beaches within the Town of Scarborough.

2. Definitions.

Beach means any beach area within the Town of Scarborough, which is used by the general public.

Exclosure means an area from which pedestrians and vehicles are excluded by means of symbolic fencing.

Owner of a dog (or owner) means any person having custody, possession or control of a dog.

Piping Plover means the Atlantic Coast Piping Plover (*Charadrius melodus*), identified as a threatened species pursuant to the Federal Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.

Sand surfer means a recreational device consisting of a board on wheels attached to a large kite or sail and propelled by wind power.

Symbolic fencing means one or two strands of lightweight string, tied between posts to delineate areas where pedestrians and vehicles should not enter.

Wrack line means the line of dried seaweed, marine vegetation and other debris left on the beach by the action of the tides.

3. Piping Plover nesting habitat to be identified.

On or before April 1st of each year, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will identify Piping Plover nesting habitat and will mark or arrange for the marking of such habitat with posts and warning signs.

4. Nests and broods protected.

When Piping Plover nests are present, the Town of Scarborough, in conjunction with the Maine Department of Inland Fisheries and Wildlife, the United States Fish and Wildlife Service and/or the Maine Audubon Society, will create or arrange for the creation of an exclosure around such nests in accordance with the guidelines of the United States Fish and Wildlife Service and authorization issued by the Maine Department of Inland Fisheries and Wildlife. Once such exclosures have been created, the following prohibitions shall apply:

- (1) No person shall enter into an exclosure, except for wildlife management purposes authorized by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.
- (2) No person shall remove or disturb the wrack line located in front of an exclosure located within 330 feet of a Piping Plover brooding site, unless such

activity is approved by the Maine Department of Inland Fisheries and Wildlife or the United States Fish and Wildlife Service.

- (3) No owner of a dog shall cause or permit that dog to enter the enclosure or shall fail to prevent that dog from entering the enclosure. All dogs shall be leashed in accordance with the Animal Control Ordinance, Chapter 604.
- (4) No person shall drive or operate a vehicle, including a non-motorized vehicle, on the wrack line. (a) Non-emergency activities such as removal of dead or injured sea mammals shall require at least two responders, one of which will act as the spotter to and from the scene. (b) All emergency response personnel will account for and avoid nesting sites and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. However, it is the policy of the Town of Scarborough that such essential vehicles will avoid driving on the wrack line where possible and will avoid frequent driving on the beach in a way which would create deep ruts that could impede movement of Piping Plover chicks.
- (5) No person shall engage in kite flying, kitesurfing or parasailing within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.
- (6) No person shall discharge or cause the discharge of any fireworks on any beach on which Piping Plovers are nesting from April 1st until all chicks are fledged.
- (7) No person shall utilize a sand surfer within 650 feet of nesting or territorial adult or unfledged juvenile Piping Plovers between April 1st and August 31st.

5. Enforcement and penalties.

Any person who violates any provision of this Ordinance commits a civil violation for which a civil penalty of no less than \$50.00 and no greater than \$250.00 shall be imposed. This Ordinance may be enforced by any officer of the Scarborough Police Department.

6. Relation to state and federal laws.

This Ordinance is intended to be consistent with state and federal protections of Piping Plovers and Piping Plover habitat. In the event of any inconsistency between this Ordinance and state or federal laws or regulations, the more stringent provisions shall control.

7. Relation to private protection efforts.

This Ordinance is not intended to supersede or displace any efforts or activities of private individuals or organizations or any protections afforded to Piping Plovers and their habitat by deed restrictions, conservation easements and other types of private covenants. To the extent any such private covenants are more restrictive than the provisions of this Ordinance, this Ordinance does not authorize any departure from the requirements of such covenants.