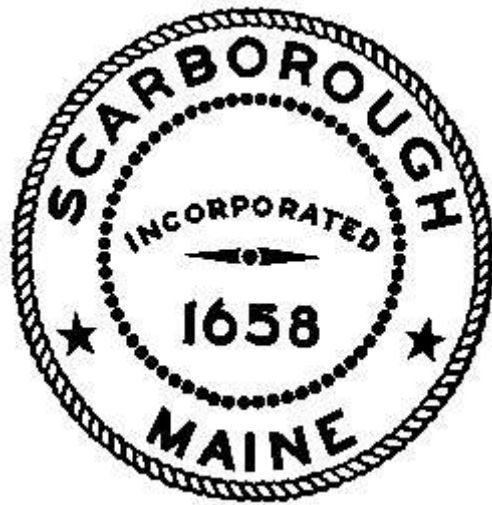


CHAPTER 616

TOWN OF SCARBOROUGH

GOOD NEIGHBOR ORDINANCE



ADOPTED MAY 3, 2017

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TOWN OF SCARBOROUGH
Good Neighbor Ordinance

1. PURPOSE.

The Scarborough Town Council recognizes certain basic standards that allow residents to enjoy their homes and property, preserve peace and quiet in our neighborhoods, help maintain property values and prevent disputes among neighbors. The purpose of this ordinance is to promote these standards and allow for enforcement of violations.

2. CREATION OF NOISE NUISANCES

(a.) **Purpose.** The Scarborough Town Council finds that excessive noise on the public ways may cause distraction to other drivers and preclude the safe operation of motor vehicles to the detriment of the health, welfare and safety of Scarborough's citizens. Accordingly, it is the policy of the Town of Scarborough to prohibit unnecessary, excessive, annoying and distracting noise on the public right-of-way within the Town of Scarborough. The Town Council also finds that people have a right to the peaceful enjoyment of their property and that excessive or continuous noise may limit that enjoyment. Accordingly, it is the policy of the Town of Scarborough to discourage the creation of unnecessary and unpleasant noise when such noise negatively affects surrounding residents.

(b.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings:

Town means the Town of Scarborough, Maine.

Noise-creating devices means any electrical, mechanical or chemical device or instrument, or combination thereof that creates noise during its operation by a person.

Motorcycle means an unenclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor-scooters and mini-bikes.

Operation means actual control by a person.

Public right-of-way means any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation purposes.

Straight pipe exhaust system means any straight through muffler that does not contain baffles, including, but not limited to, glass packs, steel packs and straight pipes.

A. Noise Upon Public Right-of-Way.

(1.) Creation of Certain Noises upon Public Right-of-Way Prohibited.

(a.) No person, while occupying any public right-of-way in the Town, shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise.

(b.) The prohibition of this section shall include, but not be limited to, the following activity or conduct:

- i. Discharging fireworks or any exploding device,
- ii. Firing a starter pistol, air gun, BB gun or a firearm,
- iii. Sounding a bell or whistle for so extended a period of time as to cause annoyance to others,
- iv. Rapid throttle advance and/or revving of an internal combustion engine resulting in increased noise from the engine,
- v. Operations of a motor vehicle, as defined in 29-A M.R.S.A. §101 (42), including but not limited to a motorcycle, with a straight pipe exhaust system, an exhaust system with a cutout, bypass or similar device or an exhaust system that does not meet the requirements of Maine law, including, but not limited to, 29-A M.R.S.A §1912.

(2.) **Exceptions.** The provisions of this section shall not apply to the following activity or conduct:

- (a.) Expression or communication protected by the United State’s Constitution, including the First Amendment, or the Maine Constitution.
- (b.) Any activity or conduct the regulation of which has been preempted by Maine Statute.
- (c.) Any noise created by a governmental entity in the performance of an official duty.
- (d.) Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
- (e.) The sounding of any signaling device permitted by law.

(3.) **Engine Brake.** A person operating a motor vehicle in the Town of Scarborough shall not use an unmuffled engine brake to slow the vehicle except in an emergency situation for the purpose of avoiding a collision with a vehicle, object, person or animal. As used in this section, “engine brake” means a device that retards the motion of a motor vehicle by using the compression of the engine of the motor vehicle and “unmuffled” means that the engine brake is not equipped with a muffler which complies with the requirements of 29-A M.R.S.A. section 1912. This section does not apply to emergency response vehicles operated by a governmental entity or licensed provider of emergency medical services.

B. Noise Abatement.

(1.) **Loud, offensive noises prohibited.**

No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) **Definitions.**

For the purpose of this article, the following words and phrases shall have the following meanings:

Daytime hours means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday.

Domestic power equipment means but is not limited to power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner.

Nighttime hours means the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through

Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Property line means that line along the ground surface and its vertical extension which:

- (1.) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; or
- (2.) Separates real property from the public right-of-way.

(3.) Exclusions.

This ordinance shall not apply to noise emitted by or related to:

- (1.) Any bell or chime from any building clock, school, or church.
- (2.) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms or car alarms not terminating within 30 minutes after being activated shall be unlawful.
- (3.) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (4.) Farming equipment or farming activity.
- (5.) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools, or similar devices operated during daytime hours.
- (6.) Timber harvesting (felling trees and removing logs from the woods).
- (7.) Noise generated by any construction or demolition equipment which is operated during daytime hours. Emergency construction or repair work by public utilities shall also be exempted. The police department may allow construction during nighttime hours if it is demonstrated that the extenuating circumstances disallow construction during the daytime hours.
- (8.) Noise created by refuse and solid waste collection.
- (9.) Municipal, public works, or utility projects.
- (10.) Using, displaying, firing, or exploding consumer fireworks within the Town of Scarborough in accordance with the Consumer Fireworks Ordinance, Chapter 608A and any other applicable law or regulation.

(4.) Specific prohibitions.

The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

- (a.) Excessive animal noise shall be regulated by the provisions in Chapter 604 – Animal Control Ordinance section 604-8 Animal Noise.
- (b.) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.
- (c.) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:
 - i. Revving of motor vehicle engines.

- ii. Squealing of tires.
- iii. Accelerating or braking unnecessarily so as to cause a harsh, objectionable or unreasonable noise.
- iv. Operating audio equipment clearly audible beyond the confines of a motor vehicle.

C. Enforcement.

This section of the ordinance may be enforced by any officer of the Scarborough Police Department. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.

Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice shall be given to the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice. If the cause of the violation is not removed or the condition abated or fully corrected within the time period specified in the written notice, or if the same person commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation.

If the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

3. CREATION OF LIGHTING NUISANCES.

A. Purpose. The purpose of this ordinance is to provide reasonable restrictions on the use of lighting in or near the residential zones of the Town so as to prevent lighting from creating a nuisance to residents within residential zones. It is recognized that lighting is essential to the conduct of many commercial and industrial enterprises for advertising and security. It is further recognized that protective security lighting in residential zones constitutes a deterrent to crime and contributes to the safety of residents. Further, properly controlled lighting in residential areas for landscaping and highlighting architectural features of buildings and structures enhances the aesthetics of properties and neighborhoods. However, it is equally recognized that lighting, by virtue of its intensity, brightness, direction, duration, and hours of operation, can constitute a nuisance to adjacent residential dwellers. It is hereby the intent of the Town in adopting this ordinance to encourage the appropriate use of lighting as set forth herein, but to regulate it in a manner to avoid any public nuisance in residential areas.

B. Exceptions. All properties covered by the Town of Scarborough Site Plan Review Ordinance, 405b, are exempt from this ordinance.

C. Outdoor light restrictions

- (1.) **Light confinement.** All outdoor lights shall, to the greatest extent possible, be allowed for safety, security, operational needs, and decorative purposes but must confine emitted light to the property on which the light is located, by means of shielded or hooded lighting elements

and shall not be directed upwards except where the light is directed away from neighboring properties and limited to the greatest extent possible to avoid urban sky glow.

- (2.) **Spillover light.** Spillover light on to residential property shall not exceed one-tenth (0.1) of one (1) foot-candle at the residential property line.

D. Outdoor light prohibitions

- (1.) Any unhooded light source.
- (2.) Any light that creates glare observable within the normal range of vision of any public right-of-way or glare that creates a safety hazard.
- (3.) Any light that resembles an authorized traffic sign, signal or device, or that interferes with, misleads, or confuses vehicular traffic as determined by the Chief of Police or designee.

E. Enforcement

- (1.) This section of the ordinance may be enforced by any Code Enforcement or Law Enforcement officer.
- (2.) No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.
- (3.) Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice of violation may be given to the alleged violating homeowner/responsible party which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice of violation. If the cause of the violation is not removed nor the condition abated or fully corrected within the time period specified in the written notice of violation, or if the same homeowner/responsible party commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation. If the alleged violating homeowner/responsible party cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violating homeowner/responsible party at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

4. PENALTIES.

A. Noise Violations

Violation of the noise sections of this ordinance are a civil violation punishable by the following civil penalties:

- | | |
|-------------------------------------|----------|
| (1) First Offense: | \$50.00 |
| (2) Second Offense: | \$100.00 |
| (3) Third Offense: | \$200.00 |
| (4) Fourth and Subsequent Offenses: | \$500.00 |

B. Lighting Violations

Any person found to be in violation of the lighting section of this ordinance or who fails to obey any lawful order of any officer charged with the enforcement of the provisions contained therein commits a civil violation and shall be fined between \$100 to \$2,500 for each day such violation continues after the time for correction of the violation specified in the written notice of violation under Section E (3) has expired.

5. SEVERABILITY.

Should any section or provision of this ordinance be determined in a court of law to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

6. EFFECTIVE DATE AND REPEAL OF PRIOR ORDINANCE

This ordinance repeals Chapter 614, Noise Abatement Ordinance, adopted on November 7, 2007 and amended March 7, 2012 and repeals and replaces Chapter 611, Noise Ordinance, adopted August 20, 2003.