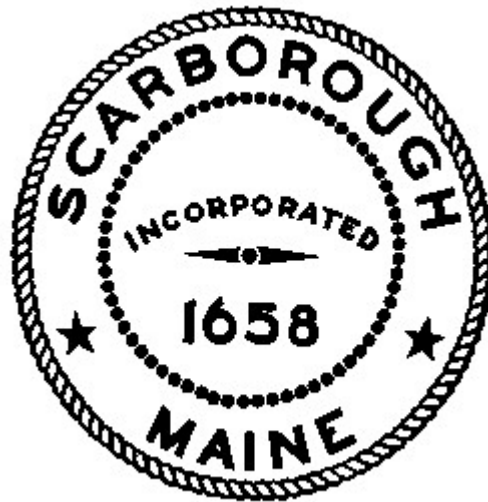


CHAPTER 614

TOWN OF SCARBOROUGH

NOISE ABATEMENT ORDINANCE



ADOPTED NOVEMBER 7, 2007
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CHAPTER 614
TOWN OF SCARBOROUGH
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Section 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.

Section 2. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section:

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.

Section 3. Enforcement.

- (a) This ordinance may be enforced by any officer of the Scarborough Police Department.
- (b) 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 his duty.
- (c) 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 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.

- (d) 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 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.

Section 4. Penalties.

Any person who violates any section of this ordinance or fails to obey any lawful order of any officer charged with the enforcement of the provisions contained herein commits a civil violation and shall be fined not less than \$100 for each day such violation continues after the time for correction of the violation specified in the notice under Section 3(c) has expired. Every day of continued violation constitutes a separate violation, and the amount of the fine shall be doubled for each day the violation continues, up to a maximum of \$400.00 per day.

Section 5. 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. [adopted 03/07/2012]

Section 6. 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: [amended 03/07/2012]

- (1) Owning, possessing or harboring a barking dog or any animal or bird which, frequently and repeatedly or for continued duration, makes sounds which create a noise disturbance across a property line onto residential property. For the purpose of this ordinance, a barking dog shall mean a dog that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a “barking dog” for purposes of this ordinance if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated. Frequent and repeated sounds by any animal which are reasonable in response to the use of consumer fireworks shall not be considered a violation of this ordinance. [amended 03/07/2012]
- (2) 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.
- (3) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:
 - a. Revving of motor vehicle engines.
 - b. Squealing of tires.

- c. Accelerating or braking unnecessarily so as to cause a harsh, objectionable or unreasonable noise.
- d. Operating audio equipment clearly audible beyond the confines of a motor vehicle.

Section 7. 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.