

AGENDA
ORDINANCE COMMITTEE

Thursday, March 02, 2017

4:00 p.m.
Council Chamber A

- Item 1.** Call to order.
- Item 2.** Attendance.
- Item 3.** Approval of Minutes: February 2, 2017.
- Item 4.** Discussion on Consumer Fireworks and possible action.
- Item 5.** Discussion on Sign Regulation- Content and Placement
- Item 6.** Discussion on Lighting and Good Neighbor ordinances.
- Item 7.** Adjournment.

Chairman Donovan's Suggested Amendments:

Things to evaluate:

The principal reason I see for the Permit is to encourage people to comply with the attached Respect Your Neighbor Guidelines and learn good safety practices. Others see it helping with enforcement (Kate for one). I drafted the Permit with the idea that little admin time would be involved in issuing permits.

I added an enforcement idea we've briefly discussed....fine the property owner.

I added a notice requirement on Fireworks retailers in Scarborough to notify purchasers that Scarborough requires a permit to promote compliance with the new permit requirement. That is not onerous since they already have a safety pamphlet they hand out to each customer that has our ordinance dates, etc. on it.

I'd like to distribute the draft to the Ord Comm after your review and edits to allow for analysis/comments before the March 2 Ord Comm meeting.

< Consumer Fireworks Ordinance 02-15-17.pages>

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 608A- Consumer Fireworks of the Town of Scarborough, Maine is amended as follows:

Amend Section IV: Use of Consumer Fireworks Restricted by adding the underlined text and deleting the text shown in strikeover type, as shown below.

SECTION IV: Use of Consumer Fireworks Restricted

A person shall not use, display, fire, or cause to be exploded (collectively, "Setting Off") consumer fireworks within the Town of Scarborough or in or from any watercraft within waters of the Town except upon the following conditions: ~~on the following days and during the following times:~~

- a. Upon receipt of, and in compliance with, a permit issued by Scarborough Fire Department in the form appended hereto as Appendix A.
- b. Only during the following days and times:
 - i. July 3rd and 4th and December 31st and January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m. ~~July 4th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;~~
 - a. ~~July 3rd and July 5th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day when July 3rd and July 5th fall on a weekend, and beginning at 9:00 a.m. and ending at 10:00 p.m. when July 3rd and July 5th fall on a weekday;~~
 - a. ~~December 31st, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day; and~~

- a. ~~January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m.~~

Amend Section V: Violation and Enforcement by adding the underlined text, as shown below.

SECTION V: Violation and Enforcement

- a. **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance and the owner of any property upon which any violation of the ordinance occurs, shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Scarborough for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.
- b. **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- c. **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- d. **SEIZURE & DISPOSAL OF CONSUMER FIREWORKS:** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

Add New Section VIII: Notice, as shown below:

SECTION VIII: Notice

Any authorized retailer for the sale of Consumer Fireworks in the Town of Scarborough shall provide written notice at the time of sale to all purchasers of Consumer Fireworks at their Scarborough retail stores that a Permit is required for use in the Town of Scarborough as set forth in SECTION IV above.

Add New Appendix A, as shown below:

Appendix A

Consumer Fireworks Permit and Application

Name _____ Date _____

Address _____ Phone _____

Location Requested _____

Dates Requested _____

I understand that this Permit applies only to the dates listed and may be revoked by the Scarborough Fire Department if weather conditions so warrant.

If the location is other than property owned by me, I have permission of the owner of the property.

I have liability insurance for any bodily injury or property damage that may result from fireworks use allowed by this permit.

I have read the Respect Your Neighbors Guidelines of the Town of Scarborough, attached hereto, and agree to follow its terms.

Applicant's Signature

Official Use Only

Permit Issuance

Date

Authorized Signature

Town of Scarborough
Respect Your Neighbors Consumer Fireworks Guidelines

Use fireworks strictly in accordance with the Permit issued.

Do not use fireworks after 10:00 p.m. on the days allowed.

Do not use fireworks in any way that could unreasonably disturb your neighbors' comfort and repose or infringe upon your neighbors' safety or peaceful enjoyment of their property.

Inform your neighbors in advance where and when you are planning to use fireworks.

Do not use fireworks near animals or livestock that may become frightened.

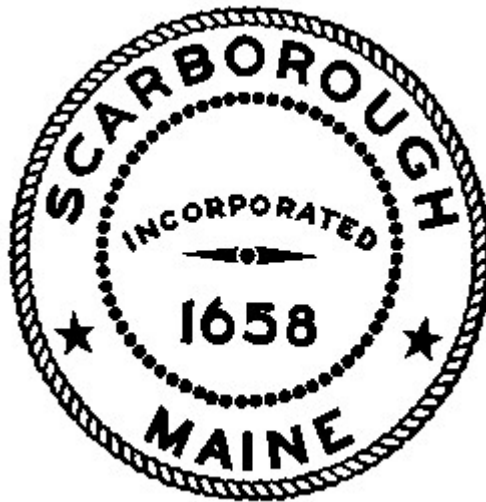
Do not permit anyone under the age of 21 to use fireworks.

Carefully follow the safety instructions provided by the Seller of the fireworks.

CHAPTER 608A

TOWN OF SCARBOROUGH

CONSUMER FIREWORKS ORDINANCE



ADOPTED MARCH 7, 2012

TABLE OF CONTENTS

SECTION I: Purpose	1
SECTION II: Title and Authority	1
SECTION III: Definitions	1
Consumer Fireworks.....	1
SECTION IV: use of Consumer Fireworks Restricted.....	1
SECTION V: Violation and Enforcement	2
SECTION VI: Exceptions.....	2
SECTION VII: Severability.....	2

CHAPTER 608a
TOWN OF SCARBOROUGH
CONSUMER FIREWORKS ORDINANCE

SECTION I: Purpose

This Ordinance regulates the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Scarborough and of the general public.

SECTION II: Title and Authority

This Ordinance shall be known as the "Town of Scarborough Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions 8 M.R.S.A. § 223-A.

SECTION III: Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

SECTION IV: Use of Consumer Fireworks Restricted

A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Scarborough or in or from any watercraft within waters of the Town except on the following days and during the following times:

- a) July 4th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day;
- b) July 3rd and July 5th, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day when July 3rd and July 5th fall on a weekend, and beginning at 9:00 a.m. and ending at 10:00 p.m. when July 3rd and July 5th fall on a weekday;
- c) December 31st, beginning at 9:00 a.m. and ending at 12:30 a.m. the following day; and

- d) January 1st, beginning at 9:00 a.m. and ending at 10:00 p.m.

SECTION V: Violation and Enforcement

- a) **PENALTY FOR VIOLATION:** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Scarborough for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.
- b) **ENFORCEMENT:** This Ordinance shall be enforced by the Town of Scarborough Police Department.
- c) **INJUNCTION:** In addition to any other remedies available at law or equity, the Town of Scarborough, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- d) **SEIZURE & DISPOSAL OF CONSUMER FIREWORKS:** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

SECTION VI: Exceptions

This Ordinance does not apply to a person or group of persons issued a fireworks display permit by the Town of Scarborough pursuant to the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and/or the State of Maine in accordance with 8 M.R.S.A. §§ 227-A to 237.

The regulation of the display of fireworks shall otherwise be as provided for in the Town of Scarborough Fireworks Display Ordinance, Chapter 608, and any other applicable state or federal law or regulation.

SECTION VII: Severability

In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

From: William Donovan
Sent: Tuesday, February 07, 2017 3:46 PM
To: Thomas Hall
Subject: Light Control Draft

Of the light control ordinances reviewed I like best one below that Larissa found from Chula Vista, CA. I have edited it down to suit our purposes. So you can review it or pass it by Larissa before we circulate it to the OC.

Purpose and intent

A. The purpose of this ordinance 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.

B. 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.

C. 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.

Industrial or commercial operations

Commercial or industrial operations shall not display lights in a manner that the beams or the rays from the light source are directed to and unshielded from adjacent residential properties. All light sources used for advertising, security or safety purposes shall be arranged or shielded in such a manner so that they will not constitute a public nuisance for residential property owners.

Residential districts

Lighting within a residential zone between the hours of dusk to dawn shall not occur in a manner that it spills out, over or onto neighboring residential properties to the degree of intensity or duration of operation that it interferes with the peaceful enjoyment of the property of such neighboring landholders or unreasonably disturbs the comfort and repose of the neighboring landowners as to constitute a nuisance. Protective security,

landscape and architectural lighting, directed and shielded in conformance with this ordinance, may be operated at all hours of the night.

Complaint Process

Upon a written complaint alleging a violation herein the Town's Code Enforcement Officer shall investigate, and upon a determination of a nuisance existing to the adjoining or neighboring property owner(s), a written notice shall be sent to the owner or person controlling such lighting, directing that the lighting be modified, discontinued or abated within 15 days of receipt of the notice. If the lighting situation has not been discontinued or abated as required in this section, the Code Enforcement Officer shall... [how are these resolved under our lord scheme?]

Other Provisions from model we used to draft from.

I did not include this provision because I thought it was redundant(?).

Unshielded lighting deemed misdemeanor when.

Lighting which is unshielded or so directed as to focus the beams directly upon adjacent residential property is prohibited at all times, and such use of lighting shall constitute a misdemeanor subject to the penalties set forth in this code.

I did not include this provision because I thought site plan review already addresses this issue.(?)

Approval of Certain Lighting plans

All lighting plans in multiple-family, commercial and industrial zones shall be submitted to the director of planning for approval prior to installation thereof. Should the city disapprove of the plans, appeal may be taken to the planning commission. The determination of the commission shall be final. (Ord. 1324 § 1, 1971; prior code § 20.35.4 (C)).

MEMORANDUM

TO: ORDINANCE COMMITTEE
FROM: LARISSA CROCKETT
SUBJECT: PROPERTY MAINTENANCE AND LIGHTING
DATE: NOVEMBER 29, 2016
CC: THOMAS HALL, DAN BACON, BRIAN LONGSTAFF, JOHN O'MALLEY

On November 22, 2016 Dan Bacon, Larissa Crockett, Brian Longstaff, and John O'Malley met to discuss the possibility of new ordinance language to address areas of concern in town. It is our recommendation that language be added to the Town of Scarborough's performance standards and/or ordinances to address both property maintenance issues and lighting challenges that have been ongoing.

Issues identified:

- Current ordinance and performance standards language does not allow for intervention on unmaintained properties until the property reaches the dangerous building level defined by the State
- Addressing a property with the dangerous building label requires an extended time line and high expense. Two recent examples, 2 Asselyn Dr. and 9 Partridge Ln., required 8 months and 19 months, respectively, and \$1,816 and \$15,000, respectively, in costs to address.
- There is currently no language to prevent light pollution or light intrusion for single family and two family homes

Questions for the Ordinance Committee to consider:

- Is a new ordinance to address lighting regulations and/or property maintenance guidelines desired
- If so, does the committee wish to create two separate ordinances for the two issues
- Does the committee want to roll the two issues into the same ordinance perhaps by amending the current noise ordinance to include language surrounding building maintenance and lighting? The new ordinance could be thought of as a "Good Neighbor Ordinance"
- Is there value in creating both a new performance standard and new ordinance language to regulate lighting? This would allow for most lighting issues to be dealt with in the permitting process but would allow infractions to be addressed by both code enforcement and law
- +enforcement
- How will the Town address existing issues that may violate any new performance standard or ordinance

