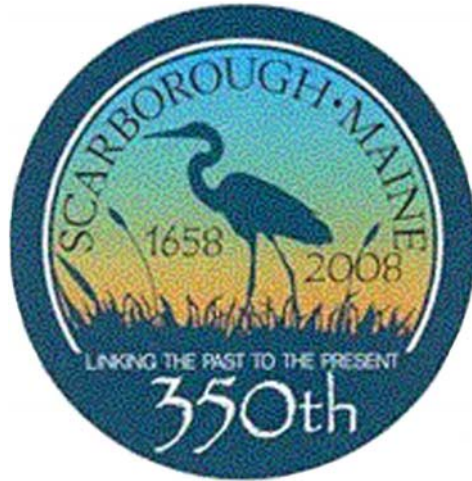


CHAPTER 901
TOWN OF SCARBOROUGH
Garbage and Recycling Collection and
Disposal Ordinance



Adopted August 20, 2008

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ARTICLE I. GENERAL PROVISIONS

Section 1.01 PURPOSE

The purpose of this Ordinance is to protect the health, safety and general well-being of the citizens of Scarborough: enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of Scarborough in accordance with the provisions of Title 38 M.R.S.A. §§ 1304-B and 1305, as amended.

Section 1.02 DEFINITIONS

1. CART:

”Cart” means a wheeled receptacle distributed by the Town of Scarborough to Scarborough residents for the purpose of facilitating the collection of garbage and recyclable materials at the curb.

2. CONSTRUCTION OR DEMOLITION DEBRIS:

”Construction or demolition debris” means solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes but is not limited to: building materials, discarded furniture, asphalt, wall board, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes.

3. CONTAINERS:

”Containers” means items including glass bottles and jars, plastic bottles and jugs, and metal cans.

4. DISPOSAL:

”Disposal” means the discharge, deposit, dumping or placing of any solid waste into or on any land.

5. ECOMAINE DISPOSAL FACILITY

”**ecomaine** Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by **ecomaine**, or any other site designated by **ecomaine**, used for storing, salvaging, reducing, incinerating or disposing of solid wastes.

6. GARBAGE:

”Garbage” means solid waste which the Town Public Works Director and/or his/her designee shall designate on a list of items that are acceptable for garbage collection posted on the Town web page.

7. HAZARDOUS WASTE:

“Hazardous waste” means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 MRSA section 1319-O or by the terms of a certain Waste Handling Agreement between the Town and **ecomaine**. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

8. OVERFLOW:

“Overflow” means garbage set out for collection that exceeds the amount contained in the Town-provided collection cart; applies only to those solid wastes considered acceptable in the curbside collection program.

9. PERSON:

“Person” means any person, firm, partnership, corporation, association, company, or organization of any kind.

10. RECYCLABLE MATERIALS or RECYCLABLES:

”Recyclable Materials” or “Recyclables” means solid waste designated by the Town Manager or his designee as suitable for inclusion in the Town’s recycling program. These items are as follows: newspapers, magazines, office paper, paperboard, cardboard, glass bottles, glass jars, #1-7 plastics, aluminum cans, aluminum foil, tin cans, steel cans and milk and juice cartons. These items are subject to change and are in reference to the materials accepted by **ecomaine**.

11. RECYCLING VEHICLE:

“Recycling vehicle” means a vehicle utilized by the Town of Scarborough or its designated agent to collect recyclable materials at the curb from all residential uses on a Town-maintained public way.

12. RESIDENTIAL USES:

“Residential uses” means, for the purpose of providing solid waste collection, single-family, duplex and multifamily dwellings (up to and including five units) on public ways. Residential uses may include home occupations as defined in the Town Zoning Ordinance, but not other mixed commercial and residential uses.

13. SOLID WASTE:

“Solid waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitations, rubbish, garbage, scrap materials, junk, inert fill material and landscaping refuse, and including material that may have value or other use or may be sold or exchanged, but not including septage tank sludge nor agricultural or hazardous wastes.

14. SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY:

“Solid Waste Disposal Facility” or “Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations and any other site used for storing, salvaging, reducing, incinerating or disposing of solid wastes, including the **ecomaine** disposal facility.

15. TOWN:

“Town” means the Town of Scarborough, Maine.

16. UNIVERSAL WASTE:

“Universal waste” means any waste listed in section 3.A(13)(b) of Chapter 850, the Maine Hazardous Waste Management Rules, including but not limited to cathode ray tubes; mercury-containing lamps; mercury-containing thermostats; and totally enclosed, non-leaking polychlorinated biphenyl (PCB) ballasts.

17. WOOD WASTES:

“Wood wastes” means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects, that are not mixed with other solid or liquid waste. For the purposes of this definition, “lumber” is entirely made of wood and is free from metal, plastics and coatings.

18. YARD WASTE:

“Yard waste” means grass clippings, leaves, and other vegetal matter other than wood wastes and land clearing debris.

Section 1.03 INSPECTION

The Public Works Director and/or the Chief of the Fire Department, or their designated agents, shall have the right to enter at all reasonable times upon private property, excluding dwellings, for the purpose of inspecting and investigating conditions relating to the enforcement and observance of the provisions of this Ordinance.

Section 1.04 DUTY TO GIVE NOTICE OF VIOLATIONS: NOTICE TO BE IN WRITING AND DESCRIBE VIOLATION

Whenever the Director of Public Works or the Chief of the Fire Department, or their designated agents, determine that there has been a violation of any provision of this Ordinance, he shall give notice of such alleged violation to the person or persons responsible therefore. Such notice shall be in writing, describe the violation, and state the corrective action required to conform to the provisions of this Ordinance.

Section 1.05 AUTHORITY TO PROVIDE FOR COLLECTIONS: WHERE COLLECTIONS PROHIBITED

The Town may provide for the regular collection of garbage as its Town Manager may direct pursuant to the provisions of this Ordinance. Such garbage shall be collected from all residences, including apartments of five (5) units or less, but shall not be collected from any business or commercial establishments. Special arrangements will be made for condominiums and private roads where applicable.

Section 1.06 AUTHORITY TO REFUSE COLLECTIONS: OWNER'S DUTY TO DISPOSE

The Town may refuse to accept collection of any garbage, which has been put out for collection in a manner which does not comply with the requirements of this Ordinance or which is too large to fit into the provided carts. The owner of such garbage shall be responsible for promptly disposing of all garbage so refused.

Section 1.07 RESPONSIBILITY TO MAINTAIN PREMISES IN SANITARY CONDITION

The owner and occupant of any premises within the Town shall be jointly responsible for maintaining said premises in a sanitary and healthful condition, all in accordance with the Ordinances of the Town.

Section 1.08 UNLAWFUL TO PLACE, DEPOSIT GARBAGE IN VIOLATION OF ORDINANCE

It shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any garbage, except in the manner permitted by the provisions of this Ordinance.

Section 1.09 TOWN TO PROVIDE CARTS

A. All garbage and recycling carts required by this Article shall be designated, provided and owned by the Town of Scarborough; all residences receiving Town solid waste collection services are required to use only the Town-provided carts for weekly garbage collection. The standard carts hold a capacity of up to 65 gallons and shall not be filled to a gross weight of more than 150 pounds each. Each residential unit will be allowed one Town-designated cart per pickup. Decisions to permit a second cart will be made on a case-by-case basis for exceptionally large households, and in those cases, only after a solid waste inspection by a Scarborough Public Works staff member to determine that the need remains when maximum recycling is being done.

B. All residential buildings of 6 or more units, nonresidential or commercial users shall provide adequate carts for the weekly garbage generated by the business conducted on the premise. At a minimum, the owner shall provide a secured container or containers with closable covers to minimize the stacking and spreading of the garbage generated by the subject business. The cost of collecting commercial waste is the Property Owner's responsibility.

Section 1.10 CARTS REQUIRED; HOURS FOR PLACEMENT AND REMOVAL; REPLACEMENT OR ADDITIONAL CARTS; OVERFLOW WASTE

A. It shall be the responsibility of the Town to provide and make available suitable and sufficient carts as described by § 1.09 to receive the accumulation of weekly household waste. Each cart shall be placed as instructed by the Town or its designated garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, but must be set out by 7:00A.M. the morning of collection, and should be removed from the Town’s right of way the day of collection.

B. Should a Town-owned cart be damaged or lost by a household, the Town will make another such cart available for replacement at a fee.

C. Residents who have “overflow waste,” defined as garbage set out for collection that exceeds the amount contained in the Town-provided collection cart, may take it to the Department of Public Works for disposal.

Section 1.11 ASHES

No hot ashes shall be placed for collection by the Town.

Section 1.12 UNLAWFUL TO RAKE LEAVES INTO STREETS OR RIGHTS OF WAY

It shall be unlawful to rake leaves into any paved street or right of way.

ARTICLE II. MANDATORY RECYCLING PROGRAM

Section 2.01 PURPOSE

The purposes of this article are to protect the health, safety and general well-being of the residents of the Town and provide a solid waste disposal option that does not require the incineration or burial of valuable raw materials. By establishing a mandatory recycling program affecting all residents of the Town of Scarborough, the Town will save money currently being spent on the disposal of solid waste, will generate revenues from the sale of recyclable materials and will reduce the impact on the environment from the generation, processing, manufacturing and sale and distribution of goods made from virgin materials.

Section 2.02 APPLICABILITY; SEPARATION OF RECYCLABLE MATERIALS REQUIRED

- 1) This article shall apply to all persons receiving the Town solid waste collection services.
- 2) All recyclable materials generated within the Town shall henceforth be separated from the daily waste stream and, for residential uses, placed at the curb in accordance with the provisions of this article. The Town may provide curbside collection of recyclables for all residential uses located on a public road. Nonresidential buildings, i.e., businesses, offices, retail, hotels, apartments, mobile home parks, motels and bed-and-breakfast establishments, shall not receive curbside collection services from the Town. Buildings that contain both business and residential uses shall be classified by the majority use within the building, based on square footage.

Section 2.03 PROPERTY RIGHTS

Any and all recyclable materials placed at the curb become the sole property of the Town or its designated agent. No one may salvage, remove or carry off any such material without prior approval of the Town Council.

Section 2.04 COLLECTION PROCEDURES

- 1) The Town may provide weekly curbside collection of recyclable materials to all residential uses within the Town. Collection of recyclables shall be on the same day as the regular garbage collection.
- 2) Recyclable materials shall be placed at the curb, separate from the regular garbage. All items shall be prepared as directed by the Town Manager or his/her designee. Items not prepared as directed by the Town Manager will be left at the curb.

Section 2.05 CONTRACTED SERVICES

The Town, at its discretion, may enter into contracts for the collection of recyclable materials or other solid wastes with residential uses that do not meet the strict definition of residential uses in this article. Such additional residential uses would include but not be limited to condominium associations. Each contract shall be negotiated individually.

ARTICLE III. COLLECTION AND REMOVAL

Section 3.01 ACCUMULATION OF GARBAGE PROHIBITED

- 1) Each household or business is responsible for preventing accumulation of garbage. On the designated day of pickup, all residential garbage must be set out in a Town designated cart for garbage collection. Each household unit should contain its waste in carts as described in § 1.10. Pursuant to § 1.10, each cart shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, and should be removed from the street or roadside after collection. No person shall cause or permit any accumulation of garbage which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.
- 2) Dumping prohibited. No person shall throw or place any garbage; recyclable materials, including paper, glass, nails, wire, bottles, and cans; yard waste, including, brush, branches, and earthen fill; construction or demolition debris; garbage carts; litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries surface water runoff. Any person who deposits any of the above shall remove it or cause it to be removed immediately. The Code Enforcement Officer, the Public Works Director or any one else designated by either shall be responsible for the enforcement of this provision.

Section 3.02 PICKUP SCHEDULE

The Town may provide one scheduled garbage pickup and one recyclable pickup per week per route for all residential uses. The collection of recyclables and garbage shall be on the same day. The Town reserves the right to change the pickup schedule.

Section 3.03 PICKUP PROCEDURE

The occupants of every residential building shall place carts for the removal of the contents by the persons authorized to collect the same, and no person other than the occupant, the owner of the premises or an authorized collector shall remove, take or otherwise disturb this garbage or any portion thereof so placed for removal. Carts placed in the public way on the regularly scheduled collection day shall be considered as being intended for collection, and as such shall be collected by no one other than authorized persons. Carts shall be covered to prevent the ingress of flies, rats or other animals.

Section 3.04 ABUSE OF CARTS

No person shall willfully remove, destroy, mutilate or utilize for another purpose other than the holding of garbage or recyclables carts which have been provided in accordance with this article. If a cart is damaged due to uncontrollable circumstances the Town will replace that cart.

Section 3.05 STOLEN CARTS

If a cart is stolen the homeowner shall call the Public Works Department and obtain the serial number for the missing cart. Then the homeowner shall file a police report stating that the cart has been stolen. Once a police report has been filed the Town will replace the stolen cart.

Section 3.06 TOWN EQUIPMENT ON PRIVATE PROPERTY

No Town equipment, or equipment contracted by the Town, shall leave public-used and Town-maintained roads, streets, lanes, alleys, highways, etc., to go on private property to pick up garbage, unless otherwise provided for herein. Within subdivisions approved by the Planning Board with private alleyways designed to accommodate garbage collection operations and vehicles, such carts shall be placed within the approved locations along the alleyways specifically designated for such carts.

Section 3.07 NOTICE TO REMOVE WASTE

Any owner, agent or occupant of land upon whose premises any unlawful accumulation of garbage may be found shall, within 24 hours after receiving written notification from the Chief of Police or Health Officer, cause the same to be removed and the nuisance abated in a manner satisfactory to the Health Officer and the Chief of Police.

ARTICLE IV. SOLID WASTE DISPOSAL

Section 4.01 Designation

In accordance with the provisions of Title 38 M.R.S.A. §1304-B, the Town hereby designates the **ecomaine** disposal facility on Congress Street in Portland, Maine, as its public solid waste disposal facility for the purposes cited in this Ordinance. The dumping or depositing of any solid waste, including recyclable materials, generated within the Town by any person, including, but not limited to, any garbage hauler licensed under Article V of this Ordinance, at any place other than at the designated disposal facility is prohibited, provided, however, that this Ordinance does not prevent the depositing or dumping of inert substances such as earth, rocks, concrete or similar material for fill purposes only on a lot by the owner of such lot, or any other person with the permission of the lot owner, if such depositing or dumping is otherwise allowed under applicable Town ordinances and state laws.

Section 4.02 Restrictions

- 1) No person shall permanently dispose of solid waste upon any land within the corporate limits of the Town, unless such land has been designated by the Town as a solid waste disposal facility.
- 2) The Town shall establish rules and regulations governing the availability and use of the designated disposal facilities. Certain materials may be excluded by regulation from those solid waste materials which may be deposited at a designated solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, trees and tree trunks and limbs, burning materials or materials containing hot or live coals; hazardous wastes; and other materials which the Town deems necessary to exclude. Hazardous wastes shall be handled in accordance with all applicable Federal, State and Local Regulations.
- 3) Except for licensed disposal of hazardous wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the Town other than trees, tree limbs, leaves and other wood waste.
- 4) The availability and use of the designated disposal facility shall be limited to residents of the Town, and to those residents of any other municipality which may, by mutual agreement, be authorized to use the disposal facility. As a means of user control, the Town shall distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the facility.
- 5) Any solid waste deposited within the designated disposal facility shall become the property of the Town or **ecomaine** pursuant to the terms of the Waste Handling Agreement between the Town and **ecomaine**. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the Town.

ARTICLE V. GARBAGE HAULING LICENSE

Section 5.01 LICENSE REQUIRED

Effective July 1, 2003, no person engaged in the business of hauling of solid waste, including but not limited to garbage or recyclables, shall collect or transport solid waste generated

within the Town without obtaining a refuse collection license from the Town and paying the required licensing fee.

Section 5.02 LICENSE FEES

Fees for licenses under this Ordinance shall be established as specified in the Schedule of License, Permit and Application Fees by order of the Town Council.

Section 5.03 APPLICATION FOR LICENSE

In order to acquire a license for the collection or transport of solid waste within the Town, the applicant shall submit to the Town Manager or the Manager's designee the following information, together with the required license fee:

- a. The name and business address of the applicant.
- b. The applicant's business telephone number.
- c. A listing of the make, model, year and size of vehicles that will be utilized for the collection or transport of solid waste within the Town.

Section 5.04 TERM OF LICENSE AND TIME FOR APPLICATION

Licenses issued under this Ordinance shall be coterminous with the fiscal year of the Town, which is July 1 through June 30. Applications for licenses for the fiscal year commencing July 1, 2003, shall be filed with the Town Manager or the Manager's designee no later than 45 days after the date of adoption of this Ordinance by the Town Council. For fiscal years commencing on and after July 1, 2004, applications shall be filed no later than March 1st of the preceding fiscal year. If an application is filed after the dates specified in this Section 4.04, any license issued in response to such application shall be valid only until the end of the fiscal year, in which the application is filed, with no proration of license fees. If after March 1st the completed application and fee are not received, a late fee will be assessed, according to the schedule of fees. [amended 05/03/2006]

Section 5.05 EXEMPTIONS

These license and fee provisions of this Ordinance shall not apply to a person or business that exclusively hauls solid waste generated by that person or business.

Section 5.06 REGULATION OF LICENSEES

Any person licensed under this Ordinance shall:

- a. operate all vehicles lawfully and safely and utilize only holders of current Maine drivers' licenses to operate such vehicles;
- b. not deliver loads containing both commercial and residential solid waste to **ecomaine**;
- c. cover and secure all loads; and
- d. comply with any agreement between the Town and **ecomaine** for disposal of solid waste.

Section 5.07 VIOLATIONS

Any failure to comply with the requirements of this Article shall be considered a violation. In addition to the penalty provisions set forth in Article VI, the Town Manager may suspend a refuse collection license for up to 30 days for a first violation of this Article and may suspend a refuse collection license for up to 60 days for a second violation. The Town Manager may suspend a refuse collection license for any period of time for any subsequent violation or may revoke the license for the remainder of the fiscal year. The Town Manager may deny a license to any person who received two or more suspensions during the prior fiscal year or whose license was revoked during the prior fiscal year.

The Town Manager shall notify a licensee of any violation that could result in a suspension or revocation and shall hold a hearing prior to taking any action on a potential suspension or revocation.

ARTICLE VI. PENALTIES

Any person who violates any provision of this Ordinance commits a civil violation, punishable by a civil penalty of not less than \$200 and not more than \$2,500 for each violation. Penalties shall be recovered upon complaint made by the Town. Each day upon which a violation continues shall be considered a separate violation. The Town shall be entitled to recover its attorney's fees and court costs in any action in which the court finds that a violation has occurred. In addition to penalties, the Town may seek injunctive relief to prevent the continuance of an ongoing or recurring violation.

ARTICLE VII. SEPARABILITY

In the event that any article, section, sub-section or any 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, sub-section, or any other portion of this Ordinance.

ARTICLE VIII. REPEAL OF PRIOR ORDINANCE

This Ordinance, as amended on August 29, 2008, repeals and replaces the ordinance entitled "Ordinance Relating to the Disposal of Solid Waste within the Town of Scarborough, Maine, Prescribing Rules and Regulations Therefore: Providing Penalties for Violations Thereof" adopted July 1985.