

Property Maintenance Ordinance

Town of Oakland, Maine

Amended January 22, 2002

Section 1. Purpose

The purpose of this ordinance is to set a minimum standard for the maintenance of the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

Section 2. Authority

This ordinance is enacted pursuant to State law, Title 30-A Section 3001.

Section 3. Required Maintenance

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions (according to the nuisance definition found in State law Title 17, Section 2802 and as shown in the Appendix) and to avoid any adverse affect on the value of adjoining properties.

Section 4. Grounds Maintenance Standards

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Examples of items which may create such conditions include: refuse, household trash, junk, debris, scrap lumber or metal, inoperable machinery or parts thereof, glass, unused and inoperable appliances, worn and unused furniture other than those licensed for storage according to the Town of Oakland Automobile Graveyard & Junkyard Ordinance, and one or more junked and/or unserviceable vehicle(s), other than those licensed for storage according to the Town of Oakland Automobile Graveyard & Junkyard Ordinance.

Section 5. Placement of Fill

All fill to be placed, deposited, or stored on any property within the Town of Oakland shall only consist of clean fill. Sites that have a valid permit from the Department of Environmental Protection, and as applicable from the Town of Oakland for the placement, storage or deposit of other types of fill material shall be exempt from these requirements.

All other applicable state and local regulations concerning the placement of fill material and soil disturbance shall be followed.

Fill that consists of hazardous materials, metals, plastics, batteries, solid waste, garbage or any other materials that are not included in the definition of clean fill shall be

prohibited. The placement of any prohibited fill shall be deemed a violation of this Ordinance and shall be removed from the site under the direction of the CEO.

Fill materials shall be graded and no mounds of fill shall remain on the site after a period of 180 days after deposit. A layer of soil, sand, crushed stone, or similar material shall be placed on the surface so that any rock, stone, concrete or similar solid materials are not visible.

Section 6. Yard Sales

Yard sales or similar sales of more than three (3) items of personal property shall not last longer than three (3) consecutive days or any fraction thereof during any seven (7) day period. In addition, there shall be no more than four (4) such sales in any calendar year. Tradespeople possessing a Maine State Sales Tax Certificate and non-profit organizations are exempt. Any violation shall be considered a nuisance condition at which time the CEO shall initiate corrective action according to Section 9 of this ordinance. The Town Council may issue exemptions on a limited basis and only under special circumstances.

Section 7. Maintenance After Casualty Damage

Within a period of 90 days after casualty (see Appendix) damage to property grounds or structures, the owner shall cause or contract (see Appendix) for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The CEO may grant an extension under certain hardship conditions (see Section 9).

Section 8. Responsibilities

Owners, operators, and occupants of properties in violation of this ordinance shall be jointly and severally liable for violations and for corrective actions required.

Section 9. Enforcement & Penalties

The Code Enforcement Officer (CEO) of the Town of Oakland shall enforce the provisions of this ordinance. As with other enforcement matters, the CEO shall first seek voluntary cooperation from the violator, allowing no more than 30 days for the completion of corrective action.

In the event of a lack of voluntary cooperation, the CEO shall notify the violator, serving a written notice by certified mail or by hand delivery. Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the receipt of the notice to correct the violation.

If a violation is not corrected within the time allowed the Town shall pursue all remedies and relief available at law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30A MRSA Section 4452. The

Town shall retain all penalties set forth in this ordinance. The CEO may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, in litigation in a higher court of law for example, the CEO shall first review the case with the Town Council.

The CEO may offer one (1) special extension per person/per incident of up to 180 days to violators of this ordinance under certain hardship or extenuating circumstances. If a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation an extension may be given. Cases of disability or financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation. These extensions for seasonal, disability, or financial hardship shall be at the discretion of the CEO.

Section 10. Severability

If any section, subsection, clause, paragraph, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 11. Effective Date

This ordinance shall be effective upon adoption by the Oakland Town Council and may be amended in accordance with Town requirements for amending ordinances.

Adopted: September 12, 2000

Appendix: Definitions

Casualty- Any unforeseeable, unintended accident affecting a property.

Cause or Contract- For this ordinance, “cause or contract” as it appears in Section 6 includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

Clean Fill – Clean fill means soil material, including soil from road ditching and sand from winter sand cleanup; stone and rock; bricks; crushed clean glass or porcelain; and cured concrete; that are not mixed with other solid or liquid waste, and are not derived from an ore mining material.

Grounds- The part of a property not covered by structures, including driveways, pathways, flowers, trees, and lawn.

Nuisance Condition- This term has been defined by MRSA Title 17 Section 2802. It reads as follows: "The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells, or other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the or obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29, section 1, subsection 7, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances."

Occupant- Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

Operator- Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner- Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

Property- For this ordinance the term shall be defined as any lot, plot, or parcel of land.

Structure- Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping. It especially includes residential, commercial or industrial buildings with usable interior space. It also refers to auxiliary buildings such as storage sheds or garages.

Tradespeople - For this ordinance the term shall mean a person(s) engaged in trade when ninety five (95%) of their items are within and sold from a shop or store.

Unserviceable - For the purposes of this ordinance the Town will rely on a Maine Supreme Court decision which included the following: “unserviceable means not ready for use or presently useable” as opposed to “incapable of being serviced.”

Yard Sales - For this ordinance the term shall mean a yard, garage, barn, deck, lawn or porch sale, flea market, or similar sale.

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