

PROPERTY MAINTENANCE ORDINANCE

TOWN OF OAKLAND

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SECTION 1 AUTHORITY

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

SECTION 2 TITLE

This ordinance shall be known as the “Property Maintenance Ordinance of the Town of Oakland, hereinafter referred to as “this ordinance”.

SECTION 3 PURPOSE

The provisions of this ordinance shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for the maintenance of structures and the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

SECTION 4 REQUIRED MAINTENANCE

All grounds and structures 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 effect on the value of adjoining properties.

SECTION 5 GROUNDS & PROPERTY MAINTENANCE STANDARDS

The grounds and the exterior of structures or parts thereof shall be kept in good repair and free from any accumulation of rubbish or garbage and any unsafe or unsanitary conditions. Such conditions may include:

Grounds

- Exterior accumulation of refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper/cardboard trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber and building materials, inoperable machinery or part thereof, glass, used furniture, used household items and unused and inoperable appliances.
- Any places where one or more, old discarded, worn out, junked, unserviceable vehicle (s), except in an approved licensed junkyard or auto repair business permitted under the

Town of Oakland Automobile Graveyard & Junkyard Ordinance and the Land Use Ordinance.

- Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public way and from abutting properties (see Appendix A) and is not in violation with State Laws. Private use does not include items intended for resale.
- Upon the closure of a business activity, the owner of said business or activity, or property owner, if different from the business owner, shall, within 30 days, remove from public view all signs identifying the business or activity that has vacated the premises.

Exterior of Structures

- All fences and barriers shall be kept in good repair.
- All exterior walls, roofs, chimneys, smokestacks, stairs, decks, porches, and balconies shall be structurally sound and maintained in good repair.
- All projections from structures, such as awnings, signs, fire escapes, and ductwork shall be properly anchored and maintained in good repair.
- All handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- All exterior doors, door assemblies and hardware shall be maintained in good condition.
- All exterior wall and roof surfaces of any structure used for human occupancy shall be protected so as to prevent wind, rain, and snow penetration.
- Buildings and basements shall be enclosed so as to prevent entry of vermin and non-domesticated animals.
- All exterior surfaces on buildings shall be completed with a finished exterior siding product within one year of either building construction or a residing project. Finished exterior products do not include; underlayment, house wrap, tarps or tarpaper.
- All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

SECTION 6 MAINTENANCE AFTER CASUALTY DAMAGE

Within a period of 90 days after casualty (see Definitions) damage to property grounds or structures, the owner shall cause or contract (see Definitions) 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 Code Enforcement Officer may grant an extension under certain hardship conditions (see Section 8).

Dangerous Building or Property

A building or property is deemed to be dangerous if, in the judgment of the Building Inspector, it presents a serious threat to life from any of the following conditions:

1. Structural failure;
2. Fire damage, explosion, or toxic gases;
3. Poisonous contamination or biological infection of water, flood damage, air or the physical environment;
4. Any use or condition of the building or property from which death or physical injury to the occupants or public could be reasonably expected if occupancy or entry to the building or property is allowed.

If the Building Inspector finds a building or property to be dangerous, a written notice of violation shall be given to the property owner and violator if different, to immediately secure such building or property to prevent unauthorized entry. If the owner fails to secure their building or property within forty-eight (48) hours of said order, or when immediate action is required to protect public safety, the Building Inspector shall cause the building or property to be secured and shall take any other necessary protective measures including, but not limited to, installing sidewalk and street barricades. All expenses incurred by the town to secure the dangerous premises and to assure the public safety affected thereby, shall be repaid to the Town of Oakland by the owner or owners of the dangerous building or property within thirty (30) days after demand for repayment to the town or a special tax may be assessed against the property and collected in the same manner as other municipal taxes are collected.

The procedure for demolition of buildings shall be in accordance with Title 17 §2851 et seq., as amended, Dangerous Buildings.

SECTION 7 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 two (2) such sales in any calendar month during the months

of May through October inclusive and not more than six (6) such sales in any calendar year. Trades people 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 Code Enforcement Officer shall initiate corrective action according to Section 10 of this ordinance. The Town Council may issue exemptions on a limited basis and only under special circumstances.

SECTION 8 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 Code Enforcement Officer.

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 concrete or similar solid materials are not visible.

SECTION 9 RESPONSIBILITIES

Owners, operators, and occupants of properties shall maintain the structures and exterior property grounds in compliance with this ordinance and shall be jointly and severally liable for violations and for corrective actions required.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or

adversely affect the public health and safety and to avoid any adverse effect on the value of adjoining properties.

SECTION 10 ENFORCEMENT & PENALTIES

Method of Service

The Code Enforcement Officer shall notify the violator. Such written notice of violation shall be deemed to be properly served if a copy thereof is: 1. Delivered personally by hand delivery, 2. Sent by certified mail addressed to the last known address; or 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or property affected by such notice.

Said notice shall explain the nature of the violation and require corrective action within 7 calendar days from the date of the receipt of the notice to correct the violation; 24 hours for a health and/or safety violation. The violator may appeal the Code Enforcement Officer's decision to the Town Council. A written application for appeal must be filed within 7 days of notification of violation or order served by the Code Enforcement Officer. Appeals of notices and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Town Council. The number of days given for compliance shall start after the Council has heard the appeal.

If a violation is not corrected within the time allowed, the Town shall pursue all remedies and relief available by law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30A MRSA Section 4452 currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. The Town shall retain all penalties set forth in this ordinance. The Code Enforcement Officer may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, the Code Enforcement Officer shall first review the case with the Town Council.

It shall be unlawful for the owner of a structure or property who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Extension Requests

Violators may submit a written request to the Code Enforcement Officer for a one time extension of time to correct the violation/s. The extension of time may be given for financial hardship and it shall be required to prove hardship through financial documentation such as tax returns and proof of expenses. If a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation/s a onetime extension of time for winter conditions may be given. These extensions for financial or seasonal hardships shall be at the discretion of the Code Enforcement Officer. The Code Enforcement Officer may offer one (1) special extension of up to 180 days to violators of this ordinance if a reasonable hardship can be shown.

SECTION 11 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 12 CONFLICT WITH OTHER LAWS

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this Ordinance shall be the one that is enforced.

SECTION 13 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: 06/13/2018

DEFINITIONS

Where terms are not defined in this ordinance and are defined in the building, fire prevention, land use, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes.

Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context applies.

Blighting Problem – A deteriorated condition.

Casualty- Any unforeseeable, unintended accident affecting a property.

Cause or Contract- For this ordinance, “cause or contract” as it appears in Section 5 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 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 permanent structures.

Imminent Hazard – A condition which could cause serious or life-threatening injury or death at any time.

Infestation – The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Junk — For this ordinance the term “junk” refers to dilapidated, discarded or used material or objects.

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 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 29A, Section 101, subsection 42, 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.

Premises –A lot, plot or parcel of land including any structures thereon.

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.

Trades People- For this ordinance the tem shall mean a person(s) engaged in the 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 (Town of Pownal v. Emerson, 639 A.2d 619 (Me. 1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2.d. 445) which includes the following: “unserviceable means not ready for use or presently useable” as opposed to “incapable of being serviced.”

Yard –An open space on the same lot with a structure.

APPENDIX A GENERAL

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the items from ordinary view from any

portion of any public way or abutting property throughout the entire calendar year. All screening must be located outside of the public way right-of-way limits.

Natural or man-made objects may be interpreted to be:

1. Hills, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Combinations of above.

Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

Fences

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. It must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable to be considered a fence.

Suggested Materials

Posts: Wood - Sound, round or square, preferably cedar, hackmatack, spruce, or fir. Preservative treatment is suggested. 4" x 4" (square) or 4" minimum diameter (round).

Metal - Steel pipe or structural section steel either galvanized or base coat painted with rust inhibitive paint.