

TOWN OF SKOWHEGAN

PROPERTY MAINTENANCE ORDINANCE

PROPOSED DRAFT

FEBRUARY 2017

SECTION I. Legislative authority

This ordinance is enacted pursuant to 30-A M.R.S.A. § 3001.

SECTION II. Purpose

The purpose of this chapter 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 III. Required maintenance

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions and to avoid any adverse effect on the value of adjoining properties. Grounds include accessory and appurtenant structures such as garages, sheds and fences.

SECTION IV. Grounds maintenance standards

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include: refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber, inoperable machinery or part thereof, glass, unused and inoperable appliances, worn and unused furniture, and three or more junked and/or unserviceable vehicle(s). 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 and is not in violation with state laws. Private use does not include resale.

SECTION V. 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 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 (where after known as CEO) may grant an extension under certain hardship conditions as in section VII.

SECTION VI. Liability for violations and corrective actions

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

SECTION VII. Enforcement; violations and penalties; extensions

1. The CEO, or his or her designee, shall notify the violator, serving a written notice by 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 notice to correct the violation, seven days (maximum) for a health and/or safety violation as determined by the CEO. The violator may appeal the CEO's decision to the Board of Selectpersons. Appeals must be made within three working days of notification by the CEO of a violation. The number of days given for compliance shall start after the Board of Selectpersons has heard the appeal.
2. If a violation is not corrected within the time allowed, the Town shall pursue all remedies, including pursuit of a judge's order to abate the property and remove the material in violation at the property owner's expense provided in 30-A M.R.S.A. § 3758-A(4)(C). In addition, the Town shall pursue relief available by law and/or in equity for land use ordinances, including, without limitation, the remedies and relief provided in 30-A M.R.S.A. § 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 chapter. 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 Manager and Board of Selectpersons.
3. The CEO may offer one 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 to 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 VIII. Definitions

CASUALTY-- Any unforeseeable, unintended damage affecting a property.

CAUSE or CONTRACT -- 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.

CEO- Code Enforcement Officer

GROUNDS -- The part of a property not covered by permanent structures.

JUNK -- For this chapter, the term "junk" refers to dilapidated or discarded material or objects as determined by the CEO.

NUISANCE CONDITION --This term has been defined by 17 M.R.S.A. § 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 three 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.

PROPERTY -- For this chapter, 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.

UNSERVICEABLE -- For the purposes of this chapter, 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."

SECTION IX. Severability

If any section, subsection, clause, paragraph, phrase or portion of this chapter 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 X. Conflict with other laws

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

SECTION XI Effective Date

This chapter shall be effective when approved by the voters of the Town of Skowhegan.