

MEMORANDUM

TO: Kate Matthews, Code Enforcement Officer

CC: Kathy Eddy, Assistant to Code Enforcement & Planning
Jason Rogers, Town Manager
Randy Thurston, Code Enforcement Officer

From: Jamel Torres, Senior Planner, North Star Planning

RE: Property Maintenance Ordinance
Boat Storage Performance Standards
LD 337 – M.R.S.A. Title 30-A, § 4358. Regulation of Manufactured Housing

Date: June 13, 2024

North Star Planning (NSP) staff attended the Ordinance Review Committee's (ORC's) meeting on May 15, 2024 and discussed proposed modifications to the Town's ordinances relative to the following documents/ordinances –

- Property Maintenance Ordinance (new)
- Boat Storage Performance Standards (new)
- LD 337 – M.R.S.A. Title 30-A, § 4358. Regulation of Manufactured Housing

NSP staff has made progress on these projects based on feedback received at the May 15, 2024 ORC meeting.

Property Maintenance Ordinance (pages 1-4)

As requested, NSP staff has made the following modifications to this draft ordinance:

- Modified the end of the purpose statement to include, “protect public health, safety, and welfare, and to prevent nuisance conditions in the community.”

Boat Storage Performance Standards (page 5)

As requested, NSP staff drafted an outline for the new Boat Storage Performance Standards ordinance language. This outline includes a section for dimensional standards and a section for specific performance standards as well. If this outline is approved by the ORC then NSP staff will work on drafting appropriate ordinance language within the proposed framework for the July 2024 ORC meeting.

LD 337 – M.R.S.A. Title 30-A, § 4358. Regulation of Manufactured Housing (pages 6-8)

As previously discussed with the ORC in May, NSP staff was recently notified that the state statute regulating manufactured housing, M.R.S.A. Title 30-A, §4358. Regulation of Manufactured Housing, was amended in early 2024 during the last legislative session via L.D. 337. The revised statute requires a municipality to allow a manufactured home anywhere a single-family dwelling unit is allowed (including mobile homes per the statute).

As requested, NSP staff audited the Town’s Land Use Ordinance in relation to the recently amended M.R.S.A. Title 30-A, §4358. Regulation of Manufactured Housing. It appears that the only section in the Land Use Ordinance that requires modifications is Section 504.5. – Village District Area. NSP staff made the following modifications to this section in the Land Use Ordinance:

- Added “Mobile Home” as a permitted use under Section 504.b. in the Land Use Ordinance.
- Renumbered all permitted uses following the addition of the “Mobile Home” permitted use accordingly.

NAPLES PROPERTY MAINTENANCE ORDINANCE

Adopted:

Property Maintenance Ordinance

Town of Naples, Maine

Section 1. Purpose

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

Section 2. Authority

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

Section 3. Required Maintenance

- I. 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 defined in the Appendix) and to avoid any adverse effect on the adjoining properties.
- II. Abandoned buildings (sheds, barns, shacks, garages) that are collapsing and dilapidated with broken/missing windows, holes in the roof and/or exterior walls or having excessive vermin living in the structure or building will be required to be made safe and that hazards to the public health and safety are eliminated.

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: Junkyards and Automobile Graveyards, tires, household debris, scrap metals, wood & discarded lumber or plastic, refuse, household trash, human waste and any item that may cause a health and or safety concern.

Section 5. Placement of Fill

Fill that consists of non-natural materials including 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 the Ordinance and shall be removed from the site under the direction of the Code Enforcement Officer(s).

Section 6. Responsibilities

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

Section 7. Enforcement & Penalties

The Code Enforcement Officer(s) (CEO) of the Town of Naples shall enforce the provisions of this ordinance.

- I. The code enforcement officer, building official, local plumbing inspector and/or health officer may enter any property when legally authorized to do so upon information indicating the

likelihood of a violation of this ordinance. The CEO shall investigate the facts, document his/her findings and shall serve written notice, first by USPS priority mail and then USPS certified mail if there has been no action or follow up from the business or person(s) legally responsible for the land and property. 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.

II. The Selectboard may enter into administrative consent agreements in the name of the Town for the purposes of voluntarily eliminating violations and recovering penalties without court action.

III. If appropriate action to correct the violations has not been taken within the period established, the CEO and/or the Town Attorney may initiate appropriate court proceedings to prevent, correct and/or abate the violation(s) after consultation with the Town Manager and approval from the Selectboard.

If a violation is not corrected within the time allowed, the Town shall pursue all remedies and relief at law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30-A MRSA Section 4452 (attorney and attorney office staff fees, expert witness fees and all court filing costs) as well as a violation of the Junkyards and Automobile Graveyards law in 30-A M.R.S. chapter 183. The Town shall retain all penalties set forth in these ordinances. Additionally, the Selectboard may also bring a dangerous building proceeding under 17 M.R.S. § 2851 to seek the abatement or disposal of a dangerous or nuisance building.

The CEO may offer one (1) special extension to abate the violation without court action 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 before presented to the Selectboard for possible legal proceedings. 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 and will require a Compliance Order.

Section 8. 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 9. Effective Date

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

Appendix: Definitions

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.

Fill: 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 nor derived form an ore mining material.

Grounds: The part of a property both covered by structures either being utilized or abandoned, including driveways, pathways, flowers, trees, and lawn.

Nuisance Condition: This item has been defined by Title 17 M.R.S. 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 any 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 29-A, 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 or the estate or as a mortgage 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.

Boat Storage Facilities – June 2024

Proposed Definition:

A building or structure where commercial parking or storage of boats and/or trailers takes place. Such parking or storage of boats and/or trailers shall not include boats and/or trailers for sale on the property.

Standards:

Proposed Boat Storage Facilities Standards Outline:

The construction of any new boat/trailer storage facility shall be done in accordance with the following standards:

1. Dimensional Standards
 - a. Minimum Lot Size: XX acres
 - b. Maximum Height: XX feet
 - c. Minimum Setbacks
 - i. Front: XX feet
 - ii. Side: XX feet
 - iii. Rear: XX feet

2. Boat Storage Performance Standards
 - a. Building Design Standards
 - b. Buffering Standards
 - c. Outdoor Storage
 - d. Off-Street Parking
 - e. Fencing
 - f. Signage
 - g. Public Safety
 - h. Other Standards

504 Zoning Districts

5. Village District Area.

a. Purpose.

The Village District area shall be a mixed residential, commercial and municipal service area. Architectural design matching the historical character and small-town image of the area shall be applied to all new construction and maintenance of existing buildings. Campgrounds, Flea Markets, and Gas Stations are prohibited in the Village Zoning District.

b. Permitted Uses.

1. Residential Uses:

- a. Single family detached dwellings, which may include manufactured housing, but shall not include mobile homes or doublewides.
- b. Two family dwellings which may include manufactured housing, but shall not include mobile homes or doublewides.
- c. Multi-family dwellings which may include manufactured housing but shall not include mobile homes or doublewides.

2. Commercial Uses:

- a. Retail businesses, street vendors with less than 64 square feet of sales area, pushcarts, service businesses, and professional offices.

3. Municipal and Other Governmental Uses

4. Institutional Uses

5. Mixed Uses Including Home Occupations:

- a. Residential use and non-residential use are permitted on the same lot in the Village District (this includes only those uses otherwise allowed in the Village District).

6. Accessory Apartment

7. Amusement Facility

8. Aquaculture

9. Bed and Breakfast

10. Boarding and Lodging Facility

11. Cemetery

12. Community Living Facility

13. Day Care Facility

14. Duplex

15. Essential Services

16. Governmental Facility

17. Home Occupation

- 18. Hotel
- 19. Library
- 20. Manufactured Housing
- 21. Marina
- 22. Medical Marijuana Registered Caregiver (subject to Section 614)
- 23. Mineral Exploration
- 24. Mobile Home
- 25. ~~24.~~ Multi-family Dwelling
- 26. ~~25.~~ Municipal Facility
- 27. ~~26.~~ Museum
- 28. ~~27.~~ Place of Worship
- 29. ~~28.~~ Public Facility
- 30. ~~29.~~ Residential Dwelling Unit
- 31. ~~30.~~ Restaurant
- 32. ~~31.~~ Retail Use
- 33. ~~32.~~ Seasonal Dwelling
- 34. ~~33.~~ Solar Energy System, Accessory
- 35. ~~34.~~ Timber Harvesting
- 36. ~~35.~~ Yard Sale

c. Prohibited Uses

- 1. All uses not specifically permitted in 504.5.b are prohibited. In addition, commercial towers, new and used motor vehicle sales, unlicensed massage businesses, street vendors utilizing more than 64 square feet of sales area, and any uses prohibited in the Naples Shoreland Zoning Section 15 G are not permitted in the Village District.

d. Dimensional Standards. The following space and bulk standards shall apply in the Village District:

- 1. Minimum Lot Size
 - a. Lots without access to public water and sewer: 40,000 sq ft b.
Lots served by public water and sewer: 15,000 sq ft
- 2. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setbacks: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
- 3. Minimum Road Frontage: 100 ft
- 4. Maximum Height: 55 ft

5. Maximum building coverage: 50%
6. Maximum impervious area: 75%