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 to prevent nuisance conditions.

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.

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