

TOWN OF MACHIAS
PROPERTY MAINTENANCE ORDINANCE
REGULATING BUILDINGS AND GROUNDS

1. **Title**

This Ordinance may be cited as the “Town of Machias Property Maintenance Ordinance.”

2. **Purpose**

- A. The purpose of this ordinance is to set a minimum standard for the physical condition and maintenance of all buildings and property located in the Town of Machias in order to protect public health, safety, property values and to prevent nuisance conditions, where the persons responsible for such properties have failed to take corrective action to abate unsafe, unsanitary, nuisance conditions. These properties have a negative impact upon the quality of life, safety, and health of the neighborhoods where they are located. This Ordinance is enacted to remedy activities or conditions of these homes and properties that are particularly disruptive to the quality of life by providing a process for abatement. This remedy is not an exclusive remedy available under any state or local laws and may be used in conjunction with other such laws.
- B. Also, these properties are a financial burden to the Town by the repeated calls for service to the properties because of the conditions that repeatedly occur or exist on such property. This Ordinance is a means to abate those conditions and hold accountable those persons responsible for such property.

3. **Definitions**

For purposes of this chapter, the following words or phrases shall have the meanings prescribed below:

Abate: To repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this ordinance by such means and in such a manner and to such an extent as the applicable Town Manager, Code Enforcement Officer, Public Health Officer, or their designee(s) determines is necessary in the interest of the general health, safety, and welfare of the community.

Building: Any structure (such as a house, hospital, school, etc.) with a roof and walls that is used as a place for people to live, work, do activities, store things, house animals or livestock, etc.

Casualty: Any unforeseeable, unintended accident affecting a property including fire damage, wind damage, snow and ice damage that cause the property to be dangerous to life, safety, or the general health and welfare of the occupants or the public.

Cause or Contract: For this ordinance, “cause or contract” as it appears 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.

Dangerous Building: All buildings or structures which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin-infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease to those living within or because of other conditions that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the public.

Dwelling: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Grounds: The part of a property not covered by structures, including driveways, pathways, trees, lawns, gardens, fields, wooded areas, ponds or swamps, etc.

Extermination: Control and elimination of insects, rodents, or other pests by eliminating their harborage places, removing or making inaccessible materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest-elimination methods.

Garbage: All refuse other than industrial-waste and effluents. It consists largely of easily decomposable and putrefying organic (animal and vegetable) waste from preparation, handling, storage, and sale or serving of food. This definition for garbage shall include non usable items such as paper products, mail, cardboard, cans, bottles, glass, generated in the operations of a home, garage, business etc.

Infestation: Presence of any insects, rodents, or other pests within or around a dwelling, premise, or parcel of land, with or without improvements.

Owner: Any person who, alone or jointly, or severally with each other shall have legal or equitable title to any property, structure, or land parcel, with, or without accompanying actual possession thereof, or shall have charge or control of such property, structure, or land parcel 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 mortgagee in possession, regardless of how such possession was obtained.

Person: Any individual, firm, corporation, association or partnership or other legal entity.

Property: A piece, parcel, lot or tract of land.

Rubbish: All combustible or non-combustible materials, except garbage, including residue from the burning of wood, coal and other combustible material, wood, excelsior, rubber, leather, tree branches, yard trimmings, metals, mineral matter, cement, dust. Etc.

4. Duties of Code Enforcement Officer

- A. The Code Enforcement Officer shall inspect on a regular basis dwellings, buildings, structures, and land parcels to determine if any conditions exist that is in violation of this Ordinance.
- B. The Code Enforcement Officer shall also investigate information received that indicates the likelihood of a violation of this Ordinance.
- C. If the inspection reveals that a Code violation has occurred, the Code Enforcement Officer shall issue a written citation of such violation to the person, firm, or corporation (hereinafter the "violation") having control of any land, building, structure, sign, or permitted business or operation that is in violation and to order that the violation be corrected.

D. **Content of Citation:** The citation shall describe the nature of the violation, including the that a civil penalty in the amount specified under 30-A M.R.S.A. §4452 is assessed for the violation, the date by which the penalty must be paid, to whom the penalty will be paid, and the consequences of failing to pay the penalty by the period stated. The citation shall state that additional penalties will be imposed if the violation is not corrected within the time period set forth in the first citation. Any additional citation that may be issue for the same violation shall also state that all penalties are cumulative.

E. The Code Enforcement Officer shall appear at all hearings conducted by all officials, agencies, or the court and to testify as to the condition of the property.

Notice of Violation: The citation may be served in hand to the violator, left with a person of suitable age at the residence or place of business of the violator or mailed by certified mail, return receipt requested, to his or her last known address. If the return receipt is not returned, the citation shall be conclusively presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service. In addition, the Code Enforcement Officer shall post a copy of the citation at the location of the violation.

Time limits for corrective action: The time period specified in a citation within which a violation must be corrected shall be reasonable taking into consideration the following factors:

1. The threat posed by said violation to the health, safety, and welfare of the public;
2. The nature of the work required to correct the violation; and
3. Any notice period given to the violator in a previous citation for the same violation.

Interest and enforcement of fines: All civil penalties assessed by citation shall be deemed due and payable within 10 days after the date by which the violation was ordered to be corrected. All civil penalties not paid when due shall bear interest at the same rate imposed for late payment of Town property taxes.

Further citations: If the violation has not been corrected within the time specified in the first citation, the enforcement official shall issue a second citation. The second citation shall contain the same information set forth in the first citation regarding the nature of the violation but may do so by reference to the first citation. The second citation shall also state the continued failure to correct the violation may result in the issuance of additional citations and shall indicate the penalties provided issuance of subsequent citations.

Civil proceedings: If the violation has not been corrected within the period established in the second citation the Code Enforcement Officer with Town Manager Approval, may initiate appropriate legal proceedings to compel the violator to correct the violation and to seek other relief to which the Town may be entitled. Such legal proceedings may include the initiation of a land use complaint pursuant to Rule 80K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. §4452, as amended.

Effect on other Ordinances: This ordinance does not supersede or repeal any other provision of the Town's ordinances or code. Nothing herein precludes the initiation of any other legal proceedings which may be authorized by an ordinance or applicable state and federal laws. Where a provision of this ordinance is found to be in conflict with any provision of local law, ordinance, code or regulation of the State of Maine or Federal Government, the provision which is more restrictive or sets higher standards shall prevail.

5. Standards

5.1. Building Standards: A building shall be deemed as meeting the standards of this ordinance if it satisfies the following building maintenance standards:

- A. Building openings.** Doors, windows, areaways and other openings must be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings must be covered by glass or other rigid transparent materials which are weather protected and tightly fitted and secured to the opening.
- B. Roofs.** The roof and flashings shall be sound and tight, admit no moisture and have no defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
- C. Drainage.** The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- D. Building structure and sanitation.** The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage, including but not limited to any combustible waste and refuse. The building shall be sanitary. The building shall not pose a threat to the public health and safety.
- E. Structural members.** The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- F. Foundation walls.** The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, animals and rodents.
- G. Exterior walls.** The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- H. Decorative features.** The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- I. Overhanging extensions.** All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- J. Chimneys and towers.** Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- K. Accessory and appurtenant structures.** Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these building maintenance standards.

- L. The owner of a vacant building or structure must comply with all building, fire, life safety, zoning, and other applicable codes or ordinances and must apply for any building, fire prevention, and zoning permits necessary to perform work required by this article.

5.2. Grounds and Land Maintenance Standards:

- A. All driveways and walkways shall be safe for pedestrian travel.
- B. All grounds shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.

Examples of items which may create unsafe, unsanitary, or nuisance conditions include refuse, garbage, rubbish, noxious or offensive materials which may cause a fire hazard or a breeding place for vermin or insects, junk, debris, scrap lumber, metal. Hazardous materials, such as chemicals, inoperable equipment or parts thereof, glass, unused or inoperable appliances, worn and unused furniture or three or more junked automobiles or unserviceable vehicles including auto, ATVs, boats, snowmobiles.

6. Maintenance after Casualty Damage

Within a period of 90 days after a casualty (See definitions) damage to property, grounds, or structures, the owner shall cause or contract for the repair or restoration of damaged areas or the demolition of any areas not to be repaired and the removal of all debris connected therewith.

7. Standards for repair, condemned properties, or demolition

The following standards shall be followed in substance by the enforcement officer of the Town of Machias in ordering repairs, condemning properties, or ordering the demolition

- A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants or the public it shall be placarded.

Furthermore, it shall be ordered that the building is condemned and shall be ordered to be vacated within such length of time, not exceeding 30 days, as is reasonable

8. Rehabilitation

The owner, agent, or other responsible person shall, within 120 days after a written notice is served, rehabilitate the building or structure and make it fit for human habitation or for other authorized uses, e.g., commercial uses in commercial zoning districts, or, in the alternative, after obtaining any other required permits and approvals, demolish said building or structure. Said one-hundred-twenty-day period may be extended by the Code Enforcement Officer for good cause shown, provided public health, safety, and welfare is not endangered thereby. Written application for consideration of an extension shall be submitted to the Code Enforcement Officer.

- A. Building to be secured. After any building or structure, or any portion thereof, has been vacated and placarded by order of the Code Enforcement Officer as unfit for human habitation pursuant to the Code of the City of Bangor, or is vacant and in such condition that no residential, commercial or other authorized use could be made of said building or structure, the Code Enforcement Officer shall require that such building or structure, or any portion thereof, be boarded up, any and all windows without glass or with broken glass be boarded up, and all doors or other openings securely fastened to prevent unauthorized entrance into said building or structure.

- B. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the Code Enforcement Officer. The Code Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action was based have been eliminated.
- C. If a dangerous or condemned building is 50% or more damaged or decayed or deteriorated from its original condition and cannot be repaired so that it will no longer exist in violation of the terms of this ordinance or statute of the State of Maine, it shall be order to be demolished, provided that the cost of the repairs to rectify or remove the conditions constituting the violations exceed 50% of the market value of the building at the time demolition is proposed.
- D. Notice of starting work. Every person to whom a building or certificate of occupancy permit is issued shall notify the Code Enforcement Officer when actual work or repairing or demolishing said building or structure is to be commenced.
- E. A building need not be placarded nor the procedures of this ordinance be followed for the Town to make use of the procedures laid out in 17 M.R.S.A. § 2851 et seq. for dangerous buildings.

9. Authority to Remedy

If the owner does not comply with the notice to abate the conditions within the time limit specified, the Town of Machias shall have the authority to take measures to correct the conditions and collect the cost of such corrections, plus 10% of all costs. The Town of Machias, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

10. Penalties for Violations

Any person who is found to be in violation of any provision or requirement of this ordinance shall be subject to a civil penalty as set forth in 30-A M.R.S.A. § 4452. Each violation of a separate provision or requirement, and each day of violation, shall constitute a separate offense.

The requirements of 30-A M.R.S.A. § 4452 shall apply to the determination of penalties for violations of this section. Each day a violation continues shall constitute a new violation. The minimum penalty for a specific violation of this section shall be \$100 and the maximum penalty shall be \$2,500; provided, however, that the maximum penalty may exceed \$2,500 but not exceed \$25,000 when it can be shown that there has been a previous conviction of the same party within the past two years for a violation of this section.

Approved and accepted by the Board of Selectmen – Date: _____

William Thompson, Chair

David Barker

Arthur McCurdy

Edward Pellon

Joseph Gurney