

## **TOWN OF MEDWAY**

### **PROPERTY MAINTENANCE ORDINANCE**

#### **SECTION 1 AUTHORITY**

This ordinance is enacted pursuant to *Maine Revised Statutes Annotated (M.R.S.A.), Title 30-A Section 3001.*

#### **SECTION 2 SHORT TITLE**

This ordinance shall be known and cited as the "Property Maintenance Ordinance" of the Town of Medway.

#### **SECTION 3 PURPOSE**

The purpose of this ordinance 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 4 REQUIRED MAINTENANCE**

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions (according to the nuisance definition found in *M.R.S.A. 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 MAINTENANCE STANDARDS**

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include containing: garbage, household trash, rubbish, 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 parts thereof, glass, unused and inoperable appliances, worn and unused furniture, and more than three unlicensed or uninspected vehicles.

This section shall not be construed to prevent conforming uses allowed by the "Land Use Ordinance of the Town of Medway".

#### **SECTION 6 MAINTENANCE AFTER CASUALTY DAMAGE**

Within a period of 90 days after casualty (see Appendix) damage to property grounds or structures, the owner shall cause or contract (see Appendix) 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 CEO may grant an extension under certain hardship conditions (see Section 9).

## **SECTION 7 RESPONSIBILITIES**

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

## **SECTION 8 ENFORCEMENT & PENALTIES**

This ordinance shall be enforced by the Code Enforcement Officer (CEO), or his or her designee. The CEO shall notify the violator, serving a written notice by certified 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 receipt of the notice to correct the violation; 7 days for a health and/or safety violation.

The violator may appeal the CEO's decision to the Town of Medway's Selectmen. Appeals must be made within 7 days of notification by the CEO of a violation. In the case of an appeal the 30 days allowed to attain compliance shall start the day after the Selectmen have heard an unsuccessful appeal by the alleged violator.

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 *M.R.S.A. Title 30A 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 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 Selectmen.

The CEO may offer one (1) 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 - April 1) and if winter weather prevents the correction of a violation an extension may be granted. 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 9 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 10 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 11 EFFECTIVE DATE**

This ordinance shall be effective upon adoption by the Town of Medway and may be amended in accordance with Town requirements for amending ordinances.  
Adopted: **September 20, 2007**

## **APPENDIX A DEFINITIONS**

**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.

**Garbage-** The animal, vegetable and any other waste resulting from the handling, preparation, cooking or consumption of food.

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

**Junk** — For this ordinance the term "junk" refers to dilapidated, discarded or worn out material(s) or objects.

**Nuisance Condition-**This term has been defined by *M.R.S.A. 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 *M.R.S.A. 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, rooming unit or place of business.

**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 ordinance the term shall be defined as any lot, plot, or parcel of land.

**Rubbish-** Combustible and noncombustible waste materials, except garbage, including but not limited to; paper, rags, cartons, boxes, wood, rubber, tires, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and other similar materials.

**Structure-** Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

**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."

## **APPENDIX B 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.

Exceptions:

1. Tarps, plastic, paper, canvas or other similar type temporary covering material *shall not* be considered screening for the purposes of this ordinance

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 property, materials or equipment from ordinary view from any public way or abutting property. 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.

## Suggested Materials

Posts: Wood - Sound, round or square, preferably cedar, 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.

All posts to extend a minimum of 40 inches below ground level or to a depth sufficient to maintain structural integrity and to be set plumb. Recommended post spacing 8' to 12'. End and corner posts to be diagonal braced to nearest adjacent post.

Stringers: Minimum 2 x 4 - Spruce or Fir - Sound and free of excessive or weakening knots, and relatively free from warp or wain, preferably treated with weather resistant preservative (paint or stain) after cutting to length. Solidly spike to wood posts or bolted to metal posts. Three stringers for 6 to 8 foot height of fence, 4 stringers for 10 to 12 foot height. Over 12 foot height would require a special design.

Steel pipe or structural section stringers may be used. There should be either galvanized or base coat painted with rust inhibitive paint.

## Facing Materials

Facing materials may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, bent, damaged, poor quality, scrap, discarded, mixed or conglomerate materials will not be acceptable.

Suggested materials would be sound, new or used boards; exterior grade hardboard or plywood; corrugated steel, aluminum, or plastic.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with an exterior grade finish of stain or paint to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to be such that the edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.