

# **TOWN OF ANSON PROPERTY & BUILDING SAFETY MAINTENANCE ORDINANCE**

## **SECTION 1 AUTHORITY**

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

## **SECTION 2 SHORT TITLES**

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

## **SECTION 3 PURPOSES**

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 State law 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: 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 one or more junked and/or unserviceable vehicle (s), other than those licensed for storage according to the Town of Anson Automobile Graveyard & Junkyard Ordinance. 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 6 MAINTENANCE AFTER CASUALTY DAMAGE**

Within a period of 60 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 DANGEROUS BUILDINGS:**

**17 M.R.S §§2851-2859 authorize the municipal officers to determine that a building or structure is "dangerous" and to order appropriate corrective action either by the owner or by the town in the event that the owner does nothing. Other than in the case of a building which is so dangerous that immediate court action is required, there is not express authority given to the CEO to act under this statute. However, if the CEO is asked to assist the municipal officers, this should be done in writing. Buildings or structures which can be dealt with under this statute must fit within one of the following categories:**

- . **Structurally unsafe;**
- . **Unstable;**
- . **Unsanitary;**
- . **Constitutes a fire hazard:**

- . **Is unsuitable or improper for the use or occupancy to which it is put:**
- . **Constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property.**

## **SECTION 8 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 9 ENFORCEMENT & PENALTIES**

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 (max.) 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 10 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.

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 30A MRSA 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 Administrative Assistant and Board of Selectpersons.

The CEO may offer one (1) special extension per person/per incident of up to 60 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. 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 10 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 11 CONFLICTS 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 12 EFFECTIVE DATE**

This ordinance shall be effective when approved by the voters of the Town of Anson.

## **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.

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

**Junk** - For this ordinance the term "junk" refers to dilapidated or discarded material or objects.

**Nuisance Condition-**This term has been defined by MRSA 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 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 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.

**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."

## **Section 8. Effective Date**

Notwithstanding any law to the contrary, this Ordinance shall take effect upon adoption at a town meeting of the Town of Anson.

**To the Town Clerk of the Town of Anson:**

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled **PROPERTY & BUILDING SAFETY MAINTENANCE ORDINANCE** which is to be presented to the voters for their consideration on March 5, 2016

Pursuant to 30-A M.R.S.A. §3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting on the day of the vote.

Dated: February 23, 2016

Anson Board of Selectmen:

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Arnold Luce

\_\_\_\_\_  
Brenda L. Garland

\_\_\_\_\_  
John H. Bryant

\_\_\_\_\_  
Philip W. Turner

\_\_\_\_\_  
Inez Moody

Adopted \_\_\_\_\_

True Attested Copy