

**TOWN OF LIVERMORE FALLS
PROPERTY MAINTENANCE ORDINANCE**

Proposed for Approval 9-16-2024

_____ Town Clerk, Livermore Falls _____ Adopted Date

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Section 1. GENERAL PROVISIONS

A. Title:

This Ordinance shall be known and cited as the Property Maintenance Ordinance for the Town of Livermore Falls, Maine.

B. Purpose:

The purpose of this Ordinance is to set a minimum standard for the conditions and maintenance of the exterior of all buildings and structures and the premises surrounding such buildings and structures in the Town of Livermore Falls in order to protect public health and safety, property values, and to prevent nuisance conditions.

C. Authority:

This Ordinance is enacted consistent with the Town of Livermore Falls' authority under Article VIII, Part 2, Section 1 of the *Maine Constitution*, and 30-A M.R.S. § 3001 and 30-A M.R.S. § 3007(2).

D. Effective Date:

The provisions of this Ordinance shall become effective upon the date of adoption by Town Meeting. Enactment of this Ordinance shall constitute a complete repeal of the Property Maintenance Ordinance dated June 9, 2015.

E. Applicability:

The provisions of this Ordinance shall apply to all properties within the boundaries of the Town of Livermore Falls, with no exceptions.

F. Relationship With Other Ordinances:

Whenever a provision of this Ordinance conflicts with, or is inconsistent with, another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

G. Validity and Severability

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of the competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance.

H. Enforcement, Penalties and Appeals:

Failure to comply with any provision of this Ordinance shall constitute a violation of this Ordinance.

1. The Code Enforcement Officer (CEO) of the Town of Livermore Falls shall act in all cases of violations of this Ordinance by notifying in writing the owner, or lessor of the lot, by certified mail, regular mail, and by hand delivery, the nature of the violation(s) and the correction, if possible, required. Corrective action shall occur within thirty (30) days from the date of receipt of the notice to correct the violation; or one (1) day for a health and/or safety violation. Copies shall be provided to the Select Board, and the Planning Board.
2. 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 the violation is discovered during winter months (November 1 – April 1) and if winter weather prevents the timely correction of the violation, a separate extension may be granted. Cases of disability or financial hardship shall also be grounds for 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 sole discretion of the CEO.
3. An aggrieved party may appeal the issuance of a notice of violation by the CEO, but not the CEO's decision to grant or deny a requested extension under Section 1(H)(2) of this Ordinance, to the Town of Livermore Falls Board of Appeals. Appeals must be made within thirty (30) days of the notification by the CEO of a violation. In the case of an appeal, any required curative period for the violation shall start the day after the Appeals Board has heard an unsuccessful appeal by the alleged violator.
4. The Select Board is charged with the prosecution for all violations of the provisions of this Ordinance. In cases where notices of violation are not promptly complied with, the Select Board may initiate enforcement proceedings against the owner of the property, and the violator of the Ordinance if different, in Maine District or Superior Court, pursuant to 30-A M.R.S. § 4452, as amended, without limitation, a minimum penalty of \$100 per day per violation and a maximum penalty of \$2500 per day per violation. Each day the violation continues shall constitute a separate violation. The Town of Livermore Falls shall retain all penalties set forth in this Ordinance. The Code Enforcement Officer may represent the Town of Livermore Falls in District Court with written authorization of the Select Board pursuant to Rule 80 K of the

Maine Rules of Civil Procedure. In the event that the Town is the prevailing party in such enforcement litigation, the Town shall be entitled to reimbursement of all costs expended in prosecution of such violation, including reasonable attorney's fees.

I. Amendments:

1. Amendments to this Ordinance shall be initiated by a majority vote of the Planning Board, by request of the Select Board, or by petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election.
2. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the Town at least ten (10) days prior to the hearing.
3. Adoption of Amendment: An amendment of this Ordinance must be adopted by a majority vote of the Town Meeting.

Section 2. DEFINITIONS

1. **Casualty:** Any unforeseeable, unintended accident affecting a property.
2. **Nuisance Condition:** This term has been defined by 17 M.R.S. § 2802, as amended. It reads as follows: "The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells or other annoyances, becomes 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; imprudent operation of a watercraft as defined in Title 12, section 13068-A, subsection 8; unlawfully diverting the water of a river, stream, pond or aquifer 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 public nuisances."

3. **Structure:** Anything built or constructed and permanently affixed on a property, exclusive of grounds or landscaping. A structure includes residential, commercial, or industrial buildings with usable interior space, and auxiliary or accessory buildings such as storage sheds or garages.
4. **Tradespeople:** For purposes of this Ordinance, the term tradespeople shall mean a person(s) engaged in trade when ninety-five (95) percent of their items are within and sold from a shop or store.
5. **Yard Sale:** For purposes of this Ordinance, the term yard sale shall mean a yard, garage, barn, deck, lawn or porch sale, flea market, or similar sale.

Section 3. MAINTENANCE REQUIRED

All structures and all parts thereof shall be properly maintained to prevent unsafe, unsanitary, hazardous and/or nuisance conditions (according to the nuisance definition found in State law Title 17, Section 2802, and as shown in Section 2 of this Ordinance) and to avoid any adverse effect on the value of adjoining properties. The exterior of all premises and the condition of all structures and components thereof shall be maintained so as to prevent and repair deterioration, so that the appearance thereof shall reflect a level of maintenance ensuring that the property itself may be preserved safely, and so that hazards to the public health and safety are avoided.

Section 4. MAINTENANCE STANDARDS FOR PREMISES AND YARD AREAS

1. All premises and yard areas shall be maintained in a safe and sanitary condition, including but not limited to, steps, walks, driveways, fences, retaining walls, trees, and shrubs. If any such area or object constitutes a danger to health or safety, it shall be repaired, replaced, or removed.
2. All yards, courts or lots shall be kept free of accumulations of trash, garbage refuse, junk, inoperable machinery or parts thereof, unused inoperable appliances, worn and unused furniture, one or more junked and/or unserviceable vehicle(s) or parts thereof or other noxious or offensive material which may cause a fire hazard or may act as a breeding place for vermin or insects or create a negative impact on abutters.
3. A person may not establish, operate, or maintain an automobile graveyard, automobile recycling business or junkyard, as those terms are defined in 30-A

M.R.S. § 3752, as amended, without first obtaining a nontransferable permit from the Select Board of the Town of Livermore Falls in which the automobile graveyard, automobile recycling business or junkyard is to be located, as required by 30-A M.R.S. § 3753, as amended. An automobile graveyard, automobile recycling business or junkyard shall meet all the requirements of 30-A M.R.S. §§ 3754-A and 3755-A, respectively, as amended. All permitted automobile graveyards, automobile recycling businesses or junkyards shall be enclosed by a visual screen at least six (6) feet in height and built in accordance with D.O.T. rules as authorized by 30-A M.R.S. § 3755-A, as amended.

4. All property owners or residents, including but not limited to, homeowners, renters, landlords, developers, property management groups, home owner associations and the like that have trash receptacles for use on a property must have the trash collected and disposed of on a regular basis as to avoid any over flow. All such receptacles shall have tight fitting covers to discourage vermin and prevent trash from becoming wind-blown onto property or onto abutting

properties. Any lessor and/or renter of trash receptacles that has over flow due to, but not limited to, non-pick up and disposal of trash because of non-payment to the receptacle company will be in violation of this ordinance. Upon receipt of notice from the Code Enforcement Officer, the violator shall have seven (7) days to resolve the violation or be subject to enforcement and penalties per Section 1, subsection H,4 of this Ordinance.

Section 5. YARD SALES

Yard sales or similar sales of more than three (3) items of personal property shall not last longer than three (3) consecutive days or any fraction thereof during any seven (7) day period. In addition, there shall be no more than four (4) such sales in any calendar year at a single residence or property location. Tradespeople possessing a Maine State Sales Tax Certificate and non-profit organizations are exempt from this requirement. Any violation shall be considered a nuisance condition at which time the Code Enforcement Officer (CEO) shall initiate corrective action according to Section 1, paragraph H of this Ordinance.

Section 6. CASUALTY DAMAGED PROPERTY

1. If a structure, damaged or destroyed by fire or other causes, is deemed by the Code Enforcement Officer, Local Health Officer and/or the Fire Chief to constitute a hazard to the safety and/or health of the community, the Code Enforcement Officer shall notify the property owner, in writing, via certified mail

with return receipt requested and by first class mail with certificate of mailing. The building shall be repaired or demolished within 60 days of the date of receipt of the Code Enforcement Officer's letter or after the building is released from the insurance company or investigators. The property owner must show proof of non-release from insurance company or investigators upon request from Town's Code Enforcement Officer, Manager, and/or Select Board. If demolition is required, all materials must be disposed of in accordance with Town of Livermore Falls ordinances and as otherwise provided by law.

2. In the event of damage or destruction so extensive as to necessitate substantial replacement or rebuilding, rather than repair, an application for a building permit may be made at any time after the date of such casualty, to be issued subject to all other applicable provisions enacted by ordinances of the Town of Livermore Falls.
3. Failure to repair or remove a damaged or destroyed structure as required under this Section may lead to the initiation of enforcement proceedings against the property owner, as specified in Section 1(H) of this Ordinance and/or the initiation of a dangerous building proceeding consistent with 17 M.R.S. § 2851, et seq., as amended.

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