

## Town of Brownfield, Maine

### Ordinance to Control Disorderly Buildings

#### 1. PURPOSE:

The Town of Brownfield has determined that it is in the public interest and necessary for the preservation of public health, safety and welfare to address issues caused by persistent nuisance activities caused by disorderly buildings within the Town.

#### 2. DEFINITIONS:

**Building** means any single or multi-family residence or part thereof, including, without limitation, garages, outbuildings and exterior grounds, inhabited by the owner(s), their tenants, or the invitees of the owner(s) or tenant(s)

**Disorderly Building** means any building to which law enforcement officers have visited three (3) or more times in any ninety (90) day period in response to situations or conduct which is unreasonably disturbing the community, the neighborhood, or an ordinary individual in the vicinity of said building. Such conduct includes, without limitation, unreasonable and/or unnecessarily loud music, excessively loud and unnecessary noises emanating from within the building which is audible outside the building, boisterous parties, fights (excluding incidents involving domestic violence) or the arrest and conviction of persons at the building for conduct that constitutes a crime or civil infraction. Such a Disorderly Building is considered a public nuisance.

**Law Enforcement Officer** means the Oxford County Sheriff's Office, the Maine State Police, or any other law enforcement agency having jurisdiction within the Town of Brownfield.

#### 3. PROCEDURE FOR ESTABLISHING A DISORDERLY BUILDING:

##### **Documentation of complaints/incident reports:**

The situation prompting the response of law enforcement officers to the potentially disorderly building shall be documented by the responding law enforcement officers. Such documentation should include, at a minimum, the identities of all individuals whose actions prompted the call for service, and the identities of the tenant(s) and owner(s) of the Building. Copies of all such documents shall be retained by law enforcement, with a copy sent to the Town of Brownfield Code Enforcement Office.

#### **Hearing by Board of Selectmen:**

Whenever a building has been identified as a potential Disorderly Building, as defined above, the Board of Selectmen may schedule a public hearing to determine whether the evidence supports such a finding. Notice of such a public hearing shall be posted in the places and in the manner as such notices are typically posted. The Selectmen shall provide written notice of the date, time and place of the hearing to the property manager or rental agent, as applicable, and to the building owner by mail, certified with return receipt requested, or by delivery in hand. The notice shall contain a statement of the possible penalties.

The Chair of the Board of Selectman or his/her designee shall preside at the hearing. A representative of the responding law enforcement agency shall be heard first and shall be followed by the person(s) named in the notice as having violated this Ordinance. Any party may cross-examine witnesses and may be represented by an attorney. Should the owner(s) of the building not appear at the hearing, the law enforcement agency shall still present its evidence. After the hearing, the Board of Selectmen shall vote on whether, based upon preponderance of evidence presented, the dwelling cited by law enforcement is a Disorderly Building within the meaning of this Ordinance.

#### **Actions Upon Finding of a Disorderly House:**

If the Board of Selectmen finds that the building in question is a Disorderly Building within the meaning of this Ordinance, the parties may enter into a consent agreement with the owner(s) of the building whereby that person(s) agrees to control the type of conduct which led to a finding of Disorderly Building by, for example, enforcing rules and regulations pertaining to tenants and licensees and evicting tenants who refuse to comply with rules and regulations.

If the terms of a consent agreement cannot be agreed upon, or if once agreed, the property owner does not comply with the terms of said consent agreement, the Board may refer the matter to the Towns Attorney for legal action pursuant to Rule 80H of the Maine Rules of Civil Procedure.

Nothing in this Ordinance shall preclude the Town from seeking other remedies provide by law for the conduct described herein, including, without limitations, those remedies provided by 17 M.R.S.A. 2701, et seq.

#### **4. VIOLATIONS:**

It shall be a violation of this Ordinance to:

- (1) Maintain, direct to be maintained, or otherwise own, operate or control a building deemed to be a Disorderly Building within the meaning of this Ordinance by the Board of Selectmen.
- (2) Violate the terms of a consent agreement entered into by and between the owner(s) of a building deemed to be a Disorderly Building within the terms of this Ordinance and the Town of Brownfield

The Board of Selectmen may authorize the Town Attorney to prosecute any and all violations of this Ordinance pursuant of Rule 80H of the Maine Rules of Civil Procedure.

**5. FINES AND PENALTIES:**

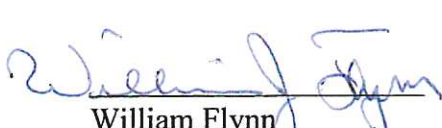
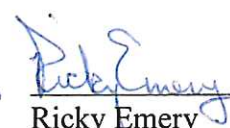

- A) Violation of this Ordinance constitutes a civil violation pursuant to 17-A.M.R.S.A. § 4-B and its punishable by a minimum penalty of \$100 per day and a maximum penalty of \$2500.00. Each day constitutes a separate violation.
- B) In addition to penalties, the violator may be ordered to correct or abate the violations. If the Town of Brownfield is the prevailing party in any legal action taken to enforce this Ordinance, the Town must be awarded reasonable attorney's fees and expert witness fess and costs, unless the court finds that special circumstances make the award of these fees unjust. 30-A M.R.S.A § 4452.
- C) In setting a penalty, the following factors shall be considered: prior violations by the same party, the extent to which the violation continued following a municipal order to stop, and the extent to which the Town contributed to the violation by providing the violator with incorrect information or by failing to take timely action.
- D) If the economic benefit resulting from the violation exceeds the applicable penalties under this Ordinance, the maximum penalties may be increased.

**6. SEVERABILITY:**

In the event that any provision of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provision of this Ordinance shall not be invalidated.

**Enacted : June 12, 2019**

**Certified By:**

 _____ William Flynn Chair, Board of Selectmen	 _____ Ricky Emery Selectmen	 _____ Erik Walker Selectmen
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