

DRAFT FOR PUBLIC HEARING
Town of Baldwin
Disorderly House Ordinance

June 2022

1. PURPOSE

The purpose of this ordinance is to protect the health, safety, and welfare of the residents of the Town of Baldwin by addressing properties harboring occupants who disturb the peace and tranquility of their neighborhoods. It is in the public interest to alleviate and abate the problems surrounding real properties whose owners, occupants, or visitors disturb the peace and tranquility of the community and the ability of persons of reasonable sensibilities to peacefully enjoy their own premises in a manner that is free from loud, offensive, riotous, illegal, or otherwise disruptive behavior or nuisance.

- a. The Town has a substantial and compelling interest in protecting the health, safety, property, and welfare of its citizens and the neighborhoods affected by chronic unlawful or nuisance activity.
- b. Chronic unlawful or nuisance activity of various kinds on and near disorderly properties adversely affects the health, safety and welfare of citizens and diminishes the quality of life in neighborhoods where this chronic activity occurs. Chronic unlawful or nuisance activity constitutes a public nuisance and should be subject to abatement.
- c. The existing ordinances and enforcement processes do not adequately control chronic unlawful or nuisance activity or its detrimental effects on citizens and neighborhoods where such chronic activity occurs.
- d. By establishing the regulatory scheme contained herein the Town seeks to alleviate the problems created by chronic or unlawful nuisance activity through early intervention.

2. DISORDERLY HOUSES PROHIBITED

No person shall occupy as owner-occupant or shall allow another to occupy a dwelling, dwelling unit, auxiliary dwelling unit, tiny home, camper, rooming house, or rooming units (hereinafter jointly and severally "building") which is a disorderly house as defined herein.

3. AUTHORITY

This Ordinance is adopted and hereafter amended pursuant to 30-A M.R.S. 3001.

4. ADMINISTRATION

This Ordinance shall be administered by the Town of Baldwin Select Board and Code Enforcement Officer (CEO).

5. DEFINITIONS

A "disorderly house" is any building which:

- a. Any police department, or departments, has visited three times or more in any sixty-day period in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and which would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated or under the influence of drugs on public ways in the vicinity of the building; other similar activities in the building or outside the building itself; or
- b. The police have visited three or more times in any sixty-day period in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and involve the arrest of the owners or tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law, or create a reasonable suspicion that illegal drug use or sales under Title 17-A M.R.S.A., Chapter 45, or prostitution or public indecency under Title 17-A M.R.S.A., Chapter 35, has occurred.
- c. The situations to which the visit pertains shall be documented by any police department with jurisdiction in Baldwin. Such documentation may include sworn affidavits by citizens which may be sufficient to create a reasonable suspicion said illegal activity has occurred.

6. DOCUMENTATION AND CLASSIFICATION OF DISORDERLY EVENTS

Baldwin has no municipal police force so the Town will be dependent on State, County, and Federal law enforcement to provide documentation of disorderly events. Police departments are requested to document and make available to the Baldwin Select Board all disturbance complaints and law enforcement officer dispatches, whether arising in response to a disturbance complaint or on the initiative of a law enforcement officer, relating to conduct that may qualify as a disorderly event, as defined herein. The Select Board shall review all such documentation and classify each such dispatch as either a substantiated disorderly event or as an unsubstantiated complaint or observation.

However, the Select Board shall not classify any dispatch or event as a substantiated disorderly event if the dispatch arose from a disturbance complaint that was made by or on behalf of a potential victim of violence or crime in order to seek police assistance or protection for the complainant or for a guest, resident, or owner of the affected Residential Property, including but not limited to protection from domestic violence.

7. NOTICE OF CLASSIFICATION OF DISORDERLY EVENT

Whenever the Select Board classifies a dispatch as a substantiated Disorderly Event, the CEO shall notify the owner, property manager, or rental agent of the affected Residential Property by phone and in writing (via registered mail) within seven (7) days of each such classification.

8. HEARING BY SELECT BOARD; ACTIONS

Upon receiving information of disorderly events, the Select Board shall schedule a public hearing to determine whether the evidence supports a finding that the affected Residential Property is a Disorderly House. (Hearing to be announced IAW the Select Board's "Policy on Notice for Public Proceedings" dated 3 Nov 2016) The Select Board 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 owner of the affected Residential Property by mail, certified with return receipt requested, or by delivery in-hand. If any of the classifications arose from the conduct of a tenant of the affected Residential Property, the Select Board shall also provide written notice of the date, time, and place of the hearing to the tenant by mail, certified with return receipt requested, or by delivery in-hand. The notice shall contain a statement of the alleged violation of this Ordinance and a summary of the possible monetary penalties, as set forth in Article 11.

At the time of the hearing, the owner of the property shall provide to the Select Board the following documentation:

- a. A copy of the names of all tenants or other persons authorized or presently residing in the buildings and the units they occupy;
- b. Copies of all leases with tenants residing in the building;
- c. An accurate and up to date disclosure of the building ownership

The Chair of the Select Board or his/her designee shall preside at the hearing. The Police reports shall be read first and shall be followed by the person(s) named in the notice. Any party may cross-examine any witnesses and may be represented by an attorney. After the hearing, the Select Board shall make written findings as to whether, based upon a preponderance of the evidence presented, the affected Residential Property is Disorderly House.

9. ACTIONS UPON FINDING OF A DISORDERLY HOUSE

If, after notice and hearing, the Select Board finds that the Residential Property in question is a Disorderly House, the Select Board may enter into a consent agreement with the person(s) named in the notice to control or mitigate the type of conduct which led to a finding of Disorderly House. The consent agreement will be recorded in a written agreement that addresses the disorderly conduct and what measures the owner will take to address it. The agreement to be implemented within one week of signature but not later than two weeks after the public hearing.

If the terms of a consent agreement cannot be agreed upon within two weeks of the public hearing, the Select Board may refer the matter to the Town Attorney for legal action.

If the same building should be classified as a disorderly house on a subsequent occasion within three years, the city is under no obligation to meet with the owner but may condemn and post the building or any units therein, an/or proceed directly with a referral to the Town Attorney for legal action, seeking all compensatory and equitable relief permitted by law.

10. VIOLATIONS

The following shall be violations of this Ordinance:

1. Maintaining a Disorderly House,
2. Failure to comply with the terms of a consent agreement.
3. Failure to appear at a duly noticed hearing by the Select Board concerning a Disorderly House.

Nothing in this Ordinance shall preclude the Town from seeking other remedies provided by law for the conduct described herein, including, without limitation, those remedies provided by 17-A M.R.S. Section 501-A.

11. PENALTIES

Violation of this Ordinance shall be punishable by a civil penalty of not less than \$100 and not more than \$2,500 payable directly to the Town. Each day that the violation exists shall constitute a separate offense. In addition to or in lieu of assessing a monetary penalty, the Town may enter into a consent agreement to correct or abate a violation of this Ordinance. The Town may also seek injunctive relief. If the Town prevails in a legal action to enforce this Ordinance, it shall also be entitled to an award of reasonable attorney fees and costs.

12. SEVERABILITY

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Enacted: