

CHAPTER 10 - THE POLICE DEPARTMENT

ARTICLE 1. THE POLICE DEPARTMENT

SECTION 101 PUBLIC SAFETY DIRECTOR AND POLICE CHIEF APPOINTMENTS

The City Manager shall appoint a Public Safety Director, who shall also be appointed Chief of the Police Department, subject to the confirmation of the City Council. (#1)

SECTION 101.1 DUTIES OF THE PUBLIC SAFETY DIRECTOR

The Public Safety Director shall have all of the duties as the Police Chief set forth in this Ordinance and the laws of the State of Maine, along with such other Police Department duties as may be assigned to the Public Safety Director by the City Manager. (#1)

SECTION 101.2 DEPUTY POLICE CHIEF

The City Manager shall appoint a Deputy Police Chief, subject to the confirmation of the City Council, who shall have the same duties as the Police Chief in the death, disability or absence of the Police Chief and such other duties as may be assigned to the Deputy Police Chief by the Director of Public Safety, subject to the approval of the City Manager. (#1)

SECTION 102 DUTIES OF THE POLICE CHIEF

The Police Chief shall be the commanding officer of the police department. The Police Chief shall:

SECTION 102.1

Be responsible for the enforcement of law and order.

SECTION 102.2

Direct the police department in providing service to the citizens of Brewer, to protect life and property. Specifically, to maintain peace, enforce laws and ordinances, detect, identify and apprehend criminals, prevent and investigate crimes; to regulate traffic; and perform services within their authority to improve the quality of life by providing security and safety to Brewer citizens

SECTION 102.3

Cause the streets and ways of the City to be inspected regularly, and cause to be removed all nuisances, obstructions or impediments therein, causing offenders to be prosecuted when necessary to abate such nuisances.

SECTION 102.4

Cause to be observed, and reported immediately to the City Engineer, all defects and want of repair in streets and sidewalks.

SECTION 102.5

Receive and deliver all notices and paper to members of the City Council and to the City Manager and officers appointed by either, when requested by the City Clerk, and due return thereof.

SECTION 102.6

Be responsible for the maintenance and care of all property used by the Police Department.

SECTION 102.7

Investigate, or cause to be investigated, the cause and circumstances of any accident occurring for which may be liable, instruct all police officers to report to him such accidents; notify the City Manager promptly of such accidents.

SECTION 102.8

Investigate promptly all applicants for any license or permit when such application requires certification by the Police Chief, and either deliver promptly to the City Clerk a certificate approving such license or permit or promptly advise the City Clerk of his refusal to so certify.

SECTION 102.9 CONCEALED FIREARMS PERMITS

The Police Chief shall be the issuing authority charged with issuing concealed weapons permits to residents of the City in accordance with Title 25, M.R.S.A., Section 2003 et. seq. provided, however, that he may issue any such permits without charge to any Brewer police officers.

SECTION 103 SPECIAL POLICE OFFICERS

Special Police officers shall have all the powers vested according to the laws of the State of Maine; said special police officers shall, however, serve only when and as specifically required by the Police Chief.

SECTION 103.1

They shall assist the Police Chief whenever caller upon and whenever so called shall be compensated for services rendered, as the City Manager and Police Chief may determine.

SECTION 104

All equipment furnished by the City shall remain the property of the City.

SECTION 105 CROSSING GUARDS

The Superintendent of the Brewer School Department and the Chief of Police shall recommend to the City Manager the appointment of crossing guards. The City Manager shall appoint crossing guards from those persons recommended to serve from the first day of September of each year to the thirty-first day of August the following year.

SECTION 105.1

Crossing Guards shall be considered employees of the Brewer School Department and shall be paid by said department.

SECTION 105.2

Crossing Guards shall perform their duties at such time and place as shall be determined by the Chief of Police and the Superintendent of the Brewer School Department.

SECTION 105.3

The City Manager may remove a crossing guard from his duties at any point in time, with or without cause.

ARTICLE 2. DISRUPTIVE PROPERTY (#4)

SECTION 201 DISRUPTIVE PROPERTY (#2)

Purpose: The purpose of this Section is to protect the health, safety, and welfare of the residents of the City of Brewer by eliminating the proliferation of properties harboring occupants who disturb the peace and tranquility of their neighborhoods.

Scope. This Section shall apply to the owner(s) of all residential property, as defined in this Section, located in the City of Brewer.

SECTION 202 DEFINITIONS

As used in this Section, the following terms shall have the meanings indicated:

DISRUPTIVE ACTIVITIES

Situations created, originating, or conducted within a building or within the boundaries of the property on which a building is located, or on any vacant plot or parcel of land by the owner, owner's employees, owner's representatives, occupants, tenants, or customers thereof, or the visitors to any such owner, occupant, tenant, or customer, which would unreasonably disturb the community, the neighborhood, or an ordinary individual of normal sensitivities at or beyond the property line, including but not limited to:

- A. Loud music;
- B. Boisterous gatherings;
- C. Excessive, loud or unnecessary noises audible beyond the property line;
- D. Altercations occurring on the property, such as fighting, disruptive conduct, brawling or similar activities;
- E. Other similar activities occurring within or outside any building located on the property;
- F. Criminal violations resulting in arrest or summons, to include and not be limited to: any Class A, B, or C felony offenses as defined in M.R.S.A. Title 17-A; Class D and E misdemeanor offenses as defined in M.R.S.A. Title 17-A; and M.R.S.A. Title 15 ss1092 "Violation of Condition of Release".

DISRUPTIVE EVENT NOTICE

A document summarizing the findings of the Police Officer (herein after referred to as an "Officer") investigating a complaint or the Officer's observations. The notice shall contain the time, the property identification, the identification of the Officer, basis of the complaint or observations, citation of this Section and identification of the provisions violated and other items deemed appropriate by the Police Chief (The Public Safety Director acting in his capacity as Police Chief, or his designee, herein after collectively referred to as "Police Chief").

DISRUPTIVE PROPERTY

Any property for which the Police Chief has notified the owner that the Police Department has documented and substantiated either two (2) or more disruptive events within sixty (60) days; or three (3) or more disruptive events within one hundred twenty (120) days; or four (4) or more disruptive events within one hundred eighty (180) days; or five (5) or more disruptive events within three hundred sixty (360) days.

OWNER

Any person, including any legal entity, having the right of legal title or the beneficial interest in a property or any portion thereof, as that interest is recorded in the tax records of the City of Brewer or the Registry of Deeds of Penobscot County.

PROPERTY

A. Shall mean:

- (1) Lot(s), plot(s), or parcel(s) of land on which any building(s) is located; or
- (2) Residential building(s), including one-family dwelling(s), multiple dwellings, and rooming houses or boardinghouses; or
- (3) Residential occupancies in building(s) of mixed occupancy.
- (4) Lot(s), plot(s), or parcel(s) of land which are vacant.

B. For the purpose hereof, a "mixed occupancy building" means a building used for any purpose that also contains residential occupancy therein.

SECTION 203 DECLARATION OF PUBLIC NUISANCE

A. A disruptive property is hereby declared to be a public nuisance.

B. The owner of a property shall provide sufficient control, oversight, monitoring, and management of the property to prevent the same from becoming a disruptive property.

C. The owner of a disruptive property shall be responsible for taking all necessary measures to abate or eliminate the public nuisance.

SECTION 204 DISRUPTIVE PROPERTY PROHIBITED

No owner of property shall maintain, or allow to be maintained or to exist on the owner's property, a disruptive property as defined in this Section. Each and every day that a disruptive event shall be permitted to occur on the property after it becomes classified by the Chief of Police as a disruptive property shall constitute a separate offense.

SECTION 205 DOCUMENTATION AND SUBSTANTIATION OF COMPLAINTS

The Police Department shall document all responses to observations or complaints of disturbance or disruptive activities. In the absence of a complaint, an Officer may investigate a disruptive activity based upon the Officer's own independent observation. The Officer(s) responding to a disturbance complaint of the Officer's own observation shall, at the Officer's sole discretion, classify each incident as either a substantiated disruptive activity or as an unsubstantiated complaint or observation. The Officer(s) shall identify all properties that are the object of the complaint or observation. The Officer shall issue a verbal and/or written warning to any person observed by the Officer to be present at the property that is the object of the complaint or observation advising them to cease any further disruptive activity on the property. The responding Officer(s) need not identify a single individual associated with the complaint or observation at the property.

SECTION 206 NOTICE OF DISRUPTIVE EVENTS OR DISRUPTIVE PROPERTY

A. Whenever the Police Chief determines that a disruptive event has occurred, the Police Chief shall notify the owner of the property as to the findings according to the number and frequency of prior disruptive events, if any, as provided below.

(1) First disruptive event. At the earliest time possible, but within not more than twenty-one (21) days after the first disruptive event at a property, the Police Chief may serve the owner with a copy of this Section and a disruptive event notice advising the owner that the Police Department has documented the occurrence of a disruptive event at the owner's property. Copies of the disruptive event notice shall be provided to the City Manager, Code Enforcement Officer and the Fire Chief (The Public Safety Director in his capacity, or his designee, herein after collectively referred to as "Fire Chief"). The notice shall also advise the owner that subsequent events will result in the property being classified as a disruptive property, and warn the owner that failure to prevent the property from becoming a disruptive property will constitute a violation of this Section.

(2) Second disruptive event. At the earliest possible time, but within not more than twenty-one (21) days after the second disruptive event at a property, the Police Chief may serve the owner with a copy of this Section and a disruptive event notice advising the owner that the Police Department has documented a second disruptive event at the owner's property. In the event that the property has accumulated at this time two (2) disruptive events within a sixty (60) day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this Section and is subject to a remediation process as set forth in this Section. Copies of the disruptive event notice shall be provided to the City Manager, Code Enforcement Officer and the Fire Chief.

(3) Third disruptive event. At the earliest time possible, but within not more than twenty-one (21) days after the third (3rd) disruptive event at a property, the Police Chief may serve the owner with a copy of this Section and a disruptive event notice advising the owner that the Police Department has

documented a third (3rd) disruptive event at the owner's property. In the event that the property has accumulated at this time three (3) disruptive events within a one hundred twenty (120) day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this Section and is subject to a remediation process as set forth in this Section. Copies of the disruptive event notice shall be provided to the City Manager, Code Enforcement Officer, and the Fire Chief.

(4) Fourth disruptive event. At the earliest time possible, but within not more than twenty-one (21) days after the fourth (4th) disruptive event at a property, the Police Chief may serve the owner with a copy of this Section and a disruptive event notice advising the owner that the Police Department has documented a fourth (4th) disruptive event at the owner's property. In the event that the property has accumulated at this time four (4) disruptive events within a one hundred eighty (180) day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this Section and is subject to a remediation process as set forth in this Section. Copies of the disruptive event notice shall be provided to the City Manager, Code Enforcement Officer, and the Fire Chief.

(5) Fifth disruptive event. At the earliest time possible, but within not more than twenty-one (21) days after the fifth (5th) disruptive event at a property, the Police Chief may serve the owner with a copy of this Section and a disruptive event notice advising the owner that the Police Department has documented a fifth (5th) disruptive event at the owner's property. In the event that the property has accumulated at this time five (5) disruptive events within a three hundred sixty (360) day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this Section and is subject to a remediation process as set forth in this Section. Copies of the disruptive event notice shall be provided to the City Manager, Code Enforcement Officer, and the Fire Chief.

B. Method of service. For the purposes of this Section, notices to the owner shall be served in the following ways:

(1) By certified mail, with address correction and return receipt requested and by first-class mail with address correction requested; or

(2) In a manner requested in writing by the property owner and by first-class mail with address correction requested; or

(3) In-hand service by an Officer.

(4) Posted in a conspicuous place at the entrance to the structure, if a structure is present.

SECTION 207 REMEDIATION PROCESS

A. Once a property has been classified as a disruptive property by the Police Chief, the owner shall be required to undertake a plan of remediation to abate and eliminate that public nuisance in accordance with this Section.

B. If the property has not undergone a comprehensive code and fire-safety inspection within the prior three hundred sixty (360) days, the owner must agree to make available the entire property for a comprehensive inspection by the Fire Department and the Office of Code Enforcement and schedule such inspections to be completed as soon as possible, but within fourteen (14) days of the notice of the disruptive property classification. Furthermore, the owner shall notify in writing all tenants and occupants of the property of the scheduled inspections and provide copies of such notices to the Police Chief. The owner shall also cooperate fully with the City officials to gain entry to all areas of the property. If the property is an owner-occupied one-family dwelling, the foregoing requirements shall only apply if the Code Enforcement Officer has reasonable grounds to believe that a violation of any applicable codes or ordinances exists on the property.

C. The owner, or the owner's duly authorized agent, shall meet with the Police Chief either within fourteen (14) days of the notice of the disruptive property classification or within fourteen (14) days of the completion of the inspections outlined in this Section, where such inspections are required.

D. At the time of this meeting, the owner, or the owner's duly authorized agent, shall provide to the City the following documentation:

(1) A complete description of the property, including, but not limited to:

(a) A list of all dwelling units and their postal or Emergency 911 address designation as they are located on the property;

(b) Floor plans or sketches for all structures located on the property showing the location of all dwelling unit entrances and egress points, sleeping areas, and common areas;

(c) A site description and sketch acceptable to the Code Enforcement Officer and Fire Chief showing the locations and dimensions of all structures, yards or open spaces or recreational spaces, walkways, parking spaces, driveways, and curb cuts; and

(2) Other descriptive items as might be requested by the Code Enforcement Officer, Fire Chief or Police Chief.

(3) Listing of the names of all tenants and other authorized occupants of the property at the time of the disruptive property classification.

(4) A copy of the terms and conditions contained in any occupancy agreement(s) or other lease document(s) agreed to by tenants of the disruptive property.

(5) Documentation of any other written or verbal arrangements authorizing occupancy of the disruptive property that may exist in addition to a lease agreement.

E. At the time of this meeting, the Police Chief shall, to the extent permitted by law, provide to the owner, or the owner's duly authorized agent, documentation of municipal actions that involved the property in question that were taken in the three hundred sixty (360) day period preceding the disruptive property classification, including but not limited to records of all disruptive events, disturbance complaints, code enforcement complaints and inspections, and fire-safety inspections.

F. Remediation agreement. At the meeting, the owner, or the owner's duly authorized agent, must agree to take effective measures to address the disruptive property, which measures must be satisfactory to the Police Chief and shall be memorialized in a written agreement at the conclusion of the meeting. Remedial measures may include the owner, or the owner's duly authorized agent, taking appropriate steps through the judicial system to terminate the tenancy of the tenant who engaged in disorderly activities. Remedial measures identified in the agreement shall be implemented within fourteen (14) days of the meeting. The Police Chief and the owner, or the owner's duly authorized agent, shall sign this written agreement and copies shall be provided to the City Manager. In the event that the owner, or the owner's duly authorized agent, fails or refuses to enter into such a written agreement, the Police Chief may pursue an enforcement action as authorized in this Section. Furthermore, in the event that the owner, or the owner's duly authorized agent, fails to meet the obligations of the agreement within the specified timetable to the satisfaction of the Police Chief, the Chief may pursue an enforcement action under this Section.

G. If the owner enters into a remediation agreement acceptable to the Police Chief, the Chief shall delay commencement of an enforcement action, if, in the opinion of the Chief, the owner is making a good faith effort to implement the remediation agreement and no new disruptive event occurs on the property.

SECTION 208 DURATION OF DISRUPTIVE PROPERTY CLASSIFICATION

The disruptive property classification shall be removed from the property by the Police Chief upon the Police Chief's determination of all of the following:

- A. The passage of one hundred eighty (180) days from the date of the last disruptive event without the occurrence of any substantiated disruptive events; and
- B. Payment of all civil penalties and costs arising from the enforcement action; and
- C. Verification by City Officials that all deficiencies, if any, discovered during any inspection under this Section have been corrected; and
- D. Satisfactory implementation of the remediation agreement required under this Section.

SECTION 209 VIOLATIONS AND PENALTIES

Any person who is found to be in violation of any provision of this Section shall be subject to a civil penalty of not less than \$500 and not more than \$1,000. Each violation of a separate provision of this Section, and each day of violation, shall constitute separate offenses. In addition, if the City is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the City in the enforcement of this Section, including, but not limited to City of Brewer staff time, attorney's fees, and costs. All civil penalties shall inure to the benefit of the City of Brewer.

SECTION 210 ENFORCEMENT

A. It is a further violation of this Section for any owner to:

(1) Refuse to meet with the Police Chief as required by this Section, or to have the owner's duly authorized agent meet with the Chief; or

(2) Refuse to enter into a written remediation agreement as required by this Section; or

(3) Fail to fully implement the remediation agreement in compliance with the timetable specified in the agreement; or

(4) Fail to abate or eliminate the disruptive property public nuisance.

B. The Police Chief, with the approval of the City Manager, is authorized to institute, or cause to be instituted, any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this Section and to seek the abatement and elimination of the disruptive property public nuisance.

SECTION 211 SEVERABILITY

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

ARTICLE 3. SEX OFFENDER RESIDENCY RESTRICTIONS (#4)

SECTION 301 FINDINGS AND PURPOSE

The findings and purpose of this Section include the following:

- a) The City of Brewer promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance;
- b) The City of Brewer recognizes that sex offenders who prey upon children have a high rate of recidivism;
- c) Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to Title 34-A, Chapter 15, in order to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning those registrants and offenders, the City finds that further protective measures are necessary and warranted to safeguard places where children congregate; and
- d) The purpose of this Section is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

SECTION 302 AUTHORITY

This Section is adopted in accordance with the provisions of 30-A M.R.S.A. §3001 and 30-A M.R.S.A. §3014.

SECTION 303 APPLICATION

This Section applies to persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction. A person to whom this Section applies is referred to as a "sex offender".

SECTION 304 RESTRICTED AREAS

SECTION 304.1 No sex offender shall reside within seven hundred fifty (750) feet of the property line of any public or private elementary, middle or secondary school.

SECTION 304.2 No sex offender shall reside within seven hundred fifty (750) feet of any publicly owned property where children are the primary users. Without limiting the application of this subsection, any public park containing playground equipment or a municipal pool shall be deemed to be municipally owned property where children are the primary users. For the purpose of this Section, if the area used by children is concentrated onto a portion of a larger parcel, the boundary of the property shall be deemed to be one hundred (100) feet from the nearest piece of equipment or area used by children or the property line, whichever distance is less.

SECTION 304.3 No sex offender shall reside within seven hundred fifty (750) feet surrounding the real property of a municipally owned or state-owned property that is leased to a non-profit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users. For the purpose of this Section, if the area used by children is concentrated onto a portion of a larger parcel, the boundary of the property shall be deemed to be one hundred (100) feet from the nearest piece of equipment or area used by children or the property line, whichever distance is less.

SECTION 304.4 For the first offense only of this restriction, a sex offender shall have twenty-five (25) days following the date of mailing or service as required by Subsection 306 below to move from the residence to a residence not within the areas restricted by the provisions of this Section and by so moving avoid the fines and penalties imposed by Subsection 306 below.

SECTION 305 EXEMPTION

Any sex offender actually residing within a restricted area on the effective date of this Section is not subject to the restrictions contained in Subsection 304 while that person continues to reside in that dwelling. Upon moving from such dwelling, the sex offender shall comply with the restrictions contained in Subsection 304.

SECTION 306 VIOLATIONS AND PENALTIES

Any sex offender who, after written notice sent by regular mail or delivered by the City about the requirements of this Section, remains in violation of this Section for more than twenty-five (25) days shall be subject to an action brought by the City in District Court to enforce the requirements of this Section.

- a) The minimum penalty for a violation of this Section is \$500.00 per violation. Each day shall be considered a separate violation.
- b) If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
- c) The City shall seek injunctive relief to require compliance with this Section.

END OF CHAPTER NOTATIONS

Created and enacted June 4, 2002 Effective June 9, 2002 (2002-C012)

1. Enacted 09/11/12, Effective 09/11/12 (2012-C013)
2. Enacted 10/14/14, Effective 10/19/14 (2014-C017)
3. Enacted 04/12/22, Effective 04/17/22 (2022-C003)
4. Enacted 01/09/24, Effective 01/14/24 (2023-C023)