



# Town of Farmington, NH

## Nuisance Property Ordinance

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## **SECTION 1: PURPOSE**

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It is hereby declared a valid public purpose of the Town of Farmington (hereinafter referred to as “Town”) that in order to promote and protect the health and general welfare of the Town, its residents and its neighborhoods, a process needs to be in place to properly prevent properties from becoming a nuisance to the community, and adequately control and manage the properties and activities that create a nuisance.

Habitually nuisance properties not only disproportionately consume the Police Department's time and resources, but they are a nuisance to the neighbors and the community as a whole. There is an obligation on the part of the property owners to take all appropriate actions to reduce or eliminate these types of events from occurring on their properties.

It is the public policy of the Town to utilize this ordinance to control and manage the Nuisance Activities and properties described below, and to appropriately assign financial liability for enforcement actions to the owners of the property where such activities repeatedly occur.

While fines and enforcement actions may be necessary, this ordinance is not adopted to create a mechanism to solely impose punishments on the property owners; instead the goal of this ordinance is to engage property owners in a process of eliminating these Nuisance Activities to the greatest degree possible.

## **SECTION 2: DEFINITIONS**

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As used in this ordinance the following terms shall have the meanings outlined below:

### **2.1: RENTAL PROPERTY (OR PROPERTY)**

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Any type of residential unit or building, including but not limited to a single- or two-family dwelling, a multifamily dwelling unit, family apartment, apartment building, boardinghouse, condominium, rooming house or unit, or leased units in a manufactured housing park that is not Owner occupied, or that is Owner occupied and has two or more Tenants (hereinafter jointly and severally "Property"). The term "Property" also includes any area (curtilage, yard, driveway or parking area, etc.) associated with the Property.

### **2.2: DWELLING UNIT**

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An independent living space for one or more persons that provides provisions for sleeping, cooking, and sanitation all within the unit. Any Rental Property may contain one or more Dwelling Units.

### **2.3: PROPERTY OWNER OR OWNER**

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The person or persons having the right of legal title to, or the beneficial interest in, a building or parcel of land, as their interest is recorded in the tax records of the Town of Farmington. For the purpose of all notifications and related communications, the term "Owner" shall also be defined as the landlord's agent, as provided to the Town by the Owner of the Property subject to the provisions of RSA 540.

## **2.4: TENANT**

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Any person other than the Owner or the Owner's family members living at a Property, whether paying rent or not shall be considered a Tenant for the purposes of this Ordinance.

## **2.5: RESIDENT**

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Any person, either Owner or Tenant, residing at a Property.

## **2.6: NUISANCE ACTIVITIES**

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Situations created within or in the immediate vicinity of a building by a building's Owner, occupants, or Tenants, or the invitees of an Owner, occupant, or Tenant, which would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual occupying Property in or near the Nuisance Activity, including but not limited to:

1. Loud music;
2. Boisterous parties;
3. Excessively loud or unnecessary noises emanating from within or near the building or apartment which are audible outside the building or apartment;
4. Fights involving occupants of the building or their invitees;
5. Discharging Unpermitted Fireworks;
6. Tenants of the building or their guests being intoxicated outdoors in the vicinity of the building;
7. Unlawful Possession of a Controlled Drug;
8. Unlawful Cultivation, Manufacture or Distribution of a Controlled Drug;
9. Other activities that disturb the peace.

## 2.7: NUISANCE EVENT

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When the Police Department responds to a Property on the basis of a complaint of a Nuisance Activity and determines that the complaint is substantiated, the activity or activities shall be deemed a Nuisance Event.

Multiple responses to a single building that occur within a twelve (12) hour period may be deemed a single Nuisance Event at the discretion of the Police Department. The Police Department shall be the final arbiter on how events are designated, classified, and counted towards the enforcement procedures in this ordinance. The type and frequency of the events, and the degree of threat to public safety, will be factors in how the events are classified.

**EXCEPTION: The Town of Farmington does not want to discourage victims of domestic violence from calling for help or reporting abuse so the following exception will be made: When the Resident is a victim of Domestic Violence or Abuse (as defined in RSA 631:2-b or RSA 173-B:1) and calls the police in order to report an alleged act, or acts, of violence or abuse, those acts or related activities shall not be considered a Nuisance Event.**

## 2.8: HABITUAL NUISANCE PROPERTY

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Any Rental Property that meets the criteria set out in Section 4.1: Habitual Nuisance Property Designation shall be designated as a Habitual Nuisance Property.

## SECTION 3: PREVENTION

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The Town of Farmington believes that by working together with Rental Property Owners, we can prevent properties from becoming nuisance. This can be accomplished by establishing policies to deal with Nuisance Activities and by maintaining an open line of communication with the town.

### 3.1: REGISTRATION & COMMUNICATION

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The Farmington Police Department will maintain a registry of all the Rental Properties in town so that they may contact and work with the Rental Property Owners. The Owners of any Rental Property must register their Property with the Farmington Police Department by completing the Rental Property Registration Form provided by the Police Department.

All Rental Property Owners shall register their properties within 90 days of the adoption of this ordinance.

All new Rental Properties or new Rental Property Owners shall be registered within 30 days.

If any of the information changes on a Rental Property Registration, the Owner shall file a new Rental Property Registration Form within 7 days.

### 3.2: PREVENTATIVE POLICIES

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The Town of Farmington encourages all Rental Property Owners to adopt policies to prevent Nuisance Activities on their Property as well as policies to address Nuisance Activities after they happen to prevent them from happening again.

These policies may include but not be limited to:

- **Screen potential Tenants.** Rental Property Owners that are renting should have a rental application and conduct a background check that includes but is not limited to checking

with a potential Tenant's previous landlords and performing criminal record checks on potential Tenants.

- **Add rules and regulations** into leases and rental agreements that identify prohibited activities, and outline an enforcement mechanism to address violation of the rules and regulations.
- **Actively manage Rental Properties** by doing Property visits, talking with Tenants to learn about problems and issues at the Property and addressing Tenant complaints and concerns in a timely fashion.
- **Communicate with the Rental Property neighbors.** If the neighbors have a way of addressing problems at a Rental Property with the Property Owner they are more likely to let the Property Owner know about Nuisance Activities on the Property than filing a complaint with the police department.

The Town of Farmington also encourages Rental Property Owners to be proactive and engage with Town Officials and the Police Department to develop strategies to prevent Nuisance Activities on their properties.

## **SECTION 4: DOCUMENTATION & ENFORCEMENT PROCEDURES**

The Police Department shall document all responses to complaints of Nuisance Activities and classify each complaint as either “substantiated” or “unsubstantiated”. A "substantiated" Nuisance Activity shall be deemed a Nuisance Event.

### **4.1: HABITUAL NUISANCE PROPERTY DESIGNATION**

Any Property that meets the criteria set out below shall be designated as a Habitual Nuisance Property:

1. Any Property which has had four (4) or more Nuisance Events in any twelve (12) month period, or
2. Any Property which has had two (2) or more Nuisance Events as a result of Unlawful cultivation, manufacture or distribution of a Controlled Drug in any twelve month period.

Once a Property has been designated as a Habitual Nuisance Property it shall retain that designation until it is removed by the Chief of Police following the Habitual Nuisance Property Designation Removal Procedure detailed in section 4.2 of this ordinance.

### **4.2: HABITUAL NUISANCE PROPERTY DESIGNATION REMOVAL PROCEDURE**

A Property Owner who wants to have the Habitual Nuisance Property Designation removed shall follow the following process:

1. Request a meeting with the Chief of Police or his designee to discuss a Property Improvement Strategy. The Chief shall schedule the meeting with the Property Owner within fifteen (15) business days to discuss the strategy.
2. After the meeting submit a Property Improvement Plan to the Chief of Police. The plan shall outline the specific actions the Property Owner plans to remedy the problem with



time frames. The Chief will review the plan and either approve it, or send it back to the Owner for further revisions.

3. Once the plan is approved and after six (6) months with no Nuisance Events at the Property, the Property Owner shall send a letter to the Chief of Police requesting removal of the Habitual Nuisance Property Designation. The Chief of Police shall then remove the Habitual Nuisance Property Designation.

### **4.3: APPEAL OF HABITUAL NUISANCE PROPERTY DESIGNATION**

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The Designation as a Habitual Nuisance Property may be appealed to the Town Administrator within five (5) business days of receipt of the Habitual Nuisance Property Notice. Upon receipt of appeal the Town Administrator shall schedule a meeting with Property Owner and the Chief of Police or his designee within ten (10) business days.

At the meeting the Property Owner may make the case for removal of the designation. The Chief of Police or his designee will bring documentation of the Nuisance Events that led to the designation. The Town Administrator shall review the appeal and if there is a preponderance of evidence that the Nuisance Events did occur the Town Administrator shall uphold the designation.

### **4.4: NUISANCE EVENT NOTICE**

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Whenever there is a Nuisance Event, the Police Department shall within ten (10) business days of the Nuisance Event send the Property Owner a Nuisance Event Notice.

A Nuisance Event Notice shall include:

1. A brief narrative outlining the circumstances of the Nuisance Events [date, time, and nature of the event(s)];
2. A list of any relevant Police Department Report numbers;
3. The first Nuisance Event Notice shall include a copy of this ordinance.

The notice shall be delivered to the Owner or the appropriate representative by hand or by First-Class Mail. Service of such notice in the foregoing manner upon the Owner's agent or upon the person responsible for the Property shall constitute service of notice upon the Owner.

#### **4.5: HABITUAL NUISANCE PROPERTY NOTICE**

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Once a Property has been designated by the Chief of Police as a Habitual Nuisance Property the Police Department shall send the Property Owner a Habitual Nuisance Property Notice within ten (10) business days. The notice shall inform the Property Owner that their Property has been deemed a Habitual Nuisance Property and shall include:

1. The date their Property was designated a Habitual Nuisance Property;
2. A list of the Nuisance Events that lead to the designation;
3. A copy of this ordinance.

This notice shall be delivered in hand or by Certified Mail. Service of such notice in the foregoing manner upon the Owner's agent or upon the person responsible for the Property shall constitute service of notice upon the Owner.

#### **4.6: PENALTIES**

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Once a Property Owner has been served notice that their Property has been designated as a Habitual Nuisance Property, subsequent Nuisance Events will result in a fine from the following fine Schedule:

1. Nuisance Event One: \$250.00
2. Nuisance Event Two: \$500.00
3. Every Subsequent Nuisance Event: \$1,000.00

Fines shall be paid to Farmington Town Clerk, in person or by mail.

#### **4.7: ABEYANCE OF FINES & NUISANCE EVENT ACCUMULATION**

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The Town will hold in abeyance the accumulation of Nuisance Events and Fines resulting from the actions of a particular Resident or their guests, while the Property Owner is actively dealing with that Resident's nuisance behavior. "Actively dealing with" a Resident's nuisance behavior shall mean engaging in the eviction process to evict the Resident. If the Owner starts the eviction process but does not follow through with it until the end, it shall not be considered an "active" attempt to deal with the nuisance behavior and will not qualify for the abeyance.

The Town recognizes that not all Nuisance Events warrant evicting the responsible Resident. In those cases the Property Owner must take other appropriate steps to ensure the Nuisance Activities do not continue, and it shall be sole the discretion of the Chief of Police, or his designee, if those alternative actions are sufficient to warrant an abeyance.

In order to qualify for an abeyance the Property Owner must provide the Chief of Police, or his designee, in writing, with a detailed explanation of the remedy that is being pursued along with proof of this action, including updates as required by the Chief of Police or his designee, throughout the process until it is complete.

If the Resident is evicted or otherwise vacates the Property, any Nuisance Event that was a result of the Resident or the Resident's guest will be removed from the Properties tally of Nuisance Events. If the Property has already been designated a Habitual Nuisance Property, the designation shall remain until the Owner successfully completes the Habitual Nuisance Property Designation Removal Procedure explained in Section 4.2 of this ordinance.

#### **4.8: APPEAL OF FINES**

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Any fine can be appealed to the Town Administrator in writing within five (5) business days of receiving the fine. Upon receipt of appeal the Town Administrator shall schedule a meeting with Property Owner and the Chief of Police or his designee within ten (10) business days.

At the meeting the Property Owner may make the case for removal of the designation. The Chief of Police or his designee will bring documentation of the Nuisance Events. The Town

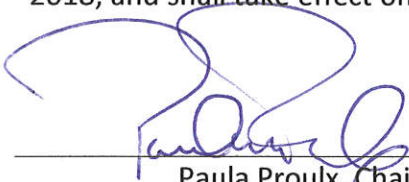
Administrator shall review the appeal and if there is a preponderance of evidence that the Nuisance Event did occur they Town Administrator shall uphold the fine.

#### **4.9: LEGAL ACTION, COST RECOVERY & ALTERNATIVE ENFORCEMENT ACTIONS**

In addition to any notice or enforcement provision outlined above, the Town may file a legal action against the Owner seeking court costs, response charges, and all damages and remedies to which it is entitled pursuant to State and local laws. The Town of Farmington also reserves the right to take any other enforcement action allowed by any other local ordinance or State statute, in conjunction with or as an alternative to this Nuisance Property Ordinance.

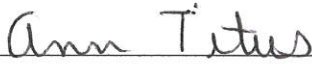
## SECTION 5: ADOPTION AND ENACTMENT

This Ordinance is adopted in accordance with NH RSA 47:17, and RSA 31:39I(n), and all other relevant statutory authority by the Town of Farmington Board of Selectmen on August 27<sup>th</sup>, 2018, and shall take effect on the 1 day of December, 2018.



Paula Proulx, Chairman

Neil Johnson, Vice Chairman



Ann Titus, Board Member



David Connolly, Board Member



T.J. Place, Board Member