

ORDINANCE NO. D-18

AN ORDINANCE DEFINING AND REGULATING
DISORDERLY HOUSES AND PROVIDING PENALTIES
FOR THE VIOLATION THEREOF

BE IT ORDAINED by the Town Council of the Town of Greenwood, in Council met,
in the manner following, to wit:

Section 1. Findings; purpose.

A. The Town Council has determined that at various times, the occupants or users of some dwelling units in the Town of Greenwood use those dwelling units for the purpose of engaging in disorderly and disruptive conduct, loud and disturbing noises, public intoxication and other violent and tumultuous behavior. The Town Council has also determined that a number of persons in lawful possession of dwelling units in the Town of Greenwood are engaging in the practice of allowing such dwelling units, designed for occupancy by essentially single families, to be occupied or used by groups of persons, frequently but not necessarily comprised of minors with insufficient adult supervision. The Town Council has further determined that these practices encourage incidents of disorderly conduct, loud and disturbing noises, public intoxication, violent and tumultuous behavior, disturbing the peace and other similar acts which are detrimental to the public health, safety, peace and welfare of the Town.

B. The Town Council has further determined that the persons entitled to lawful possession of such premises who fail to take appropriate measures to prevent recurrences of such incidents after due notice of previous disturbances by persons occupying or using the premises must be held responsible for allowing such conduct to occur on those premises.

C. It is, therefore, declared to be the purpose and intent of this Ordinance to prohibit the use of dwelling units in the Town of Greenwood for disorderly and other disruptive conduct by imposing civil penalties not only upon the occupants and/or users of such premises, but also by imposing civil penalties on those persons in lawful possession of any premises in the Town who, after notice of a previous conviction for conduct proscribed by this Ordinance, fail to take appropriate actions to prevent a subsequent violation.

Section 2. Definitions.

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

DWELLING UNIT USED FOR DISORDERLY OR OTHER DISRUPTIVE CONDUCT - Any dwelling unit (attached or detached) or any apartment or commercial lodging room located within the Town of Greenwood, the occupants, users or persons in lawful possession of which engage in any of the conduct proscribed by Section Three of this Ordinance. As used in this Ordinance, "dwelling unit" shall include not only the structure itself but also the lands and ways, if any, under control of the person(s) in lawful possession.

OCCUPANT and/or USER - Any person(s) occupying or present on a premises.

PERSON(S) IN LAWFUL POSSESSION - Any person, firm, partnership, association or corporation (or any combination thereof) having legal possession of any premises in the Town of Greenwood. The "person(s) entitled to legal possession" shall mean the owner in fee or of a life estate if the property is not under lease, or the ultimate lessee or sublessee if the property is under lease.

PREMISES - A dwelling unit, apartment or commercial lodging room, together with the lands and ways, if any, under the control of the person(s) in possession.

Section 3. Unlawful acts by occupants and/or users.

Any person occupying or present on a premises who by himself or in concert with other occupants and/or users causes public inconvenience, annoyance or alarm to any other person or persons or who creates an unreasonable risk thereof by engaging in or causing any of the following conduct shall be violating this Ordinance:

- A. Engaging in fighting or in violent, tumultuous or threatening behavior.
- B. Making, creating or permitting any unreasonably loud, disturbing and unnecessary noise or making, creating or permitting any noise of such character, intensity or duration as to be detrimental to the life, health and welfare of any person or which disturbs, injures or endangers the comfort, repose, peace or safety of any individual. By way of example and not in limitation, the following shall be deemed to be unreasonably loud, disturbing and unnecessary noises:

- (1) Playing any radio, phonograph, tapedeck or musical instrument in such a manner or at such a volume, particularly between the hours of 9:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any other dwelling unit, apartment or commercial lodging room.
 - (2) The blowing of any horn, whistle or signal device, except as a danger signal, for an unreasonable and unnecessary period of time.
 - (3) Yelling, shouting or singing at such volume as to be plainly and disturbingly audible to the human ear outside the premises.
- C. Making any offensive, coarse, obscene or profane utterance, gesture or display to another person or persons in such a manner as is likely to provoke a violent or disorderly response.
- D. Obstructing or hindering the free and convenient passage of persons walking, riding or driving over, along or across any public way, sidewalk, pavement, street or alley.
- E. Engaging in any act of indecent exposure or public display of an obscene act or gesture.
- F. Urinating in public view.

Section 4. Unlawful acts by persons entitled to lawful possession.

- A. Any person(s) entitled to lawful possession who, after notice as herein provided, allows, permits or fails to take affirmative action to prevent repeated violations of this Ordinance shall be deemed to be promoting the use of a dwelling unit for disorderly or other disruptive conduct in violation of this Ordinance.
- B. A person(s) in lawful possession shall be presumed to have allowed, permitted or failed to take affirmative action to prevent repeated violations of this Ordinance where a violation of Section Three of the Ordinance occurs after such person entitled to lawful possession has, within the past three (3) months, previously been provided actual notice by the Greenwood Police Department of a previous conviction of occupants or users for conduct proscribed by Section Three of this Ordinance.

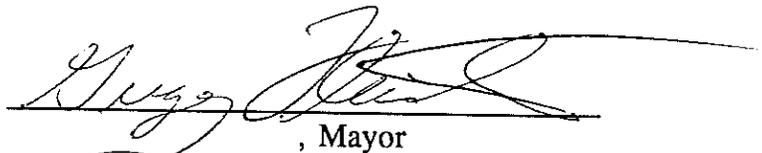
- C. "Actual notice," as used in Subsection B, shall mean verbal or written notice to one (1) or more of the person(s) entitled to lawful possession. If written notice is attempted, it shall be deemed effective by mailing a written notice thereof to the person entitled to lawful possession at his last known mailing address by certified mail, return receipt requested, with proper postage affixed. If such notice comes back undelivered (except refused or unclaimed), the Town shall exercise reasonable efforts to provide actual notice by some other means.

Section 5. Penalties for offenses.

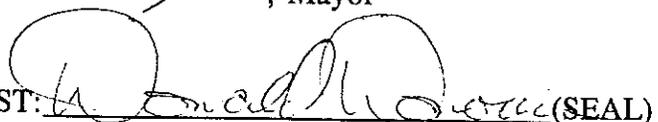
- A. Any occupant and/or user found guilty of violating Section Three of this Ordinance shall be fined not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00) for each offense, or imprisoned for a period of not more than Thirty (30) days, or both, and shall also pay the costs of prosecution.
- B. Any person(s) entitled to lawful possession found guilty of violating Section Four of this Ordinance shall be fined not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) for each offense, plus the costs of prosecution.

APPROVED by a majority of the elected Council members of the Town of Greenwood,

Delaware, this 2ND day of SEPTEMBER, 1996.



, Mayor

ATTEST:  (SEAL)

, Secretary of Council