

Sec. 10-28. Public Nuisance

This section permits the Town of Southwick to impose liability on involved parties, persons, groups, and entities identified as responsible for conduct that creates or contributes to an environment of unreasonable, disruptive, disturbing, and destructive behavior within the town limits.

Any enforcement action taken under this section and by-aw will be based on reasonable justification guided by common sense and supported by credible evidence.

(1) **Definitions.**

- a. Alcoholic beverage. All liquids intended for human consumption as a beverage which contain one half of one percent or more of alcohol by volume, including malt beverages.
- b. Eviction. Actively trying to evict a tenant from a premises by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.
- c. Gathering. A party or event where a group of persons have assembled or are assembling for a social occasion or social activity.
- d. Premises. Any residence or other private property, place or location including any commercial or business property.
- e. Property owner. The legal owner of record as listed by the tax assessor's records.
- f. Public nuisance. A gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Unlawful conduct includes, but is not limited to, excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public urination, furnishing of an alcoholic beverage to a minor, fights, disturbances of the peace, litter and allowing an unsafe number of persons at the premises and exceeding the safe capacity of the premises.

(2) **Responsibility of property manager/owner/ controlling party for gatherings on private property, residences, private land, businesses etc.**

- a. In the event the police department or other local official has been dispatched or responded to events at a privately owned or managed location the party responsible for that property shall be notified and allowed to address and remedy the situation.

If the property, premises, is a rented, leased, or primarily controlled location or facility or used by a person other than the property owner, the controlling party, manager, tenant, lessee etc. who is responsible for that location will be identified, and notified of the offenses and requested to remedy the

situation. This will not apply if the controlling party has previously been an involved party or subject of enforcement under this by law.

If after consulting with the property owner, controlling party, tenants, and co-signors there are additional responses on the same premises within a one-year period from the date of the first notice, this may result in liability of the property owner, tenants, and co-signors for all fines, penalties, damages and criminal charges associated with such response.

(3.) Persons liable for a response to gatherings deemed a public nuisance on public property and property to which the public has right of access as an invitee

Public nuisance violations that occur on public property or property which the public has regular access such as leased, or rented facilities that results in enforcement actions will be directed to the involved parties and no liability will fall on the owner/controlling party of these facilities and properties unless that party is involved in the incident.

The following persons may be jointly and separately liable for fines as set forth below. Response costs may also be assessed.

The person or persons who organized or sponsored such a gathering.

All persons attending such gatherings who engage in any activity resulting in the activity deemed a public nuisance.

(4) Enforcement and severability.

a. This section may be enforced by the noncriminal disposition process of M.G.L. c.40, section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer, fire officer, building department superintendent and/or health department official.

b. If enforced pursuant to noncriminal disposition, for a first response the fine if issued shall be at a minimum \$150.00 but if circumstances warrant the fine can elevate to \$300.00 per offense. The town may additionally seek response costs associated with this section through all remedies or procedures provided by state or local law.

c. The provisions of this by-law shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated herein, nor shall they limit the Town of Southwick's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of any provision of this section.

d. If any provision of this by-law or the application thereof to any person or circumstance, is declared invalid, that invalidity shall not affect the other provisions or applications of this section which can be given effect without the invalid provisions or application.

