



## **TOWN OF BERWICK BEDBUG TREATMENT ORDINANCE**

### *Proposed Amendments*

#### **1. Authority**

This ordinance is enacted under Town of Berwick's home rule land use ordinance enactment authority pursuant to 30-A M.R.S. Section 3001. Penalties established hereunder are established on the basis of authority granted to the Town by 30-A M.R.S. Section 4452 and in accordance with 30-A M.R.S. Section 3001(4).

#### **2. Purpose**

The purpose of this ordinance is to protect the health and welfare by providing duly appointed Berwick Land Use Code Enforcement Officer(s) authority to ensure bedbug infestation complaints and/or verifications are eliminated expeditiously.

#### **3. Application**

The provisions of this ordinance apply to Complaints about Bedbug Infestations in Apartments which are subject to the control of Landlords.

#### **4. Definitions**

"Town" refers to Town of Berwick.

"Tenant" refers to an individual or individuals possessing or occupying an apartment whether under a lease or at will.

"Dwelling Unit" refers to singular units used for residential tenancy.

"Apartment" refers to both a structure consisting of multiple (more than one) dwelling units, and/or singular dwelling units, which are used for residential tenancy.

"Landlord" refers to the owner, whether an individual or an entity, of an apartment or apartments.

"Pest Control Agent" means a commercial applicator of pesticides who or which carries current liability insurance and who or which is certified pursuant to 22 M.R.S. Section 1471-D, as that statutory section may be amended from time to time.

“Bedbug” means the common bedbug species *Cimex lectularius* as well as any related Cimex species.

“Infestation” means the presence of any live bedbug within any Apartment.

“Complaint” means a verbal or written concern about Bedbug Infestation addressed to the Town of Berwick’s Land Use Code Enforcement Officer, or the observation and verification of a Bedbug Infestation by the Land Use Code Enforcement Officer directly.

“Reasonable Measures” refers to any measure recommended to a Landlord for the treatment of a Bedbug Infestation by a Pest Control Agent following an inspection of an Apartment for such purpose.

“Bedbug Treatment” refers to a Landlord’s implementation of a Reasonable Measure.

## **5. Requirements**

Landlords. Landlords have the following duties under this Ordinance:

A. Upon written notice from a Town Land Use Code Enforcement Officer that an Apartment may have a Bedbug Infestation, any Landlord to whom control of such Apartment is subject shall within five days conduct an inspection of the unit to verify the alleged Infestation and shall within ten days notify a Town Land Use Code Enforcement Officer of his/her/its findings.

B. Upon determination by a Landlord or Land Use Code Enforcement Officer that an Infestation of Bedbugs does in fact exist in an Apartment subject to the Landlord’s control, a Landlord shall within ten days arrange for a Pest Control Agent to inspect an Apartment and make written recommendation(s) for Reasonable Measures to eliminate any Bedbug Infestation verified, or otherwise to certify in writing that no Infestation exists.

C. Following receipt of the Reasonable Measures recommended arising under paragraph B of this section, if any, a Landlord shall take steps to implement his/her/its choice of those Reasonable Measures to effectively treat the Bedbug Infestation in order to cause the Infestation to cease.

A Landlord shall notify the Town’s Land Use Code Enforcement Officer(s), in writing, of which Reasonable Measure he/she/it has selected from those recommended within five business days of receiving the recommendations.

A Landlord shall within 30 calendar days implement such Reasonable Measure in accordance with subsection E, below, and certify to the Town’s Land Use Code Enforcement Officer in writing that the Infestation has ceased.

D. Landlords may not offer for rent an Apartment or Dwelling Unit they know or suspects is Infested with Bedbugs.

E. Landlord obligations under this Ordinance are unaffected where Tenants are unable to comply with Apartment or Dwelling Unit preparations necessary for Bedbug inspection or Bedbug Treatment under subsection 5 paragraph C of this section.

In such cases, Landlords shall comply with this Ordinance in accordance with the provisions for assisting such Tenants prescribed by applicable State law at 14 M.R.S. Section 6021-A, or as otherwise determined directly through agreement with the Tenant.

This paragraph may not be construed to require Landlords to provide Tenants with alternate lodging or to pay to replace Tenant’s personal property.

Tenants. Tenants have the following duties under this Ordinance.

A. Tenants shall promptly notify Landlords, in writing, when they know of or suspect a Bedbug Infestation in a Tenant's Apartment or Dwelling Unit.

B. Upon receiving reasonable notice of at least 24 hours, including reasons for and scope of the request for access to the premises, Tenants shall grant the landlord of an Apartment or Dwelling Unit, or a Landlord's agent or Pest Control Agent and its employees, access to Apartments and/or Dwelling Units controlled by Tenants for the purpose of an inspection for or control of the Infestation of Bedbugs.

Initial inspection may include only a visual inspection and manual inspection of the Tenant's bedding and upholstered furniture. Employees of the Pest Control Agent may inspect items other than bedding and upholstered furniture when such an inspection is considered reasonable by the Pest Control Agent. If the Pest Control Agent finds bedbugs in an Apartment or Dwelling Unit or in an adjoining Dwelling Unit, the Pest Control Agent may have additional access to the Tenant's personal belongings as determined reasonable by the Pest Control Agent.

C. Upon receiving reasonable notice as set forth above, Tenants shall comply with the Reasonable Measures to eliminate and control a Bedbug Infestation. Tenant's shall not unreasonably refuse to or fail to completely comply with the Pest Control Agent's Reasonable Measures as selected by a Landlord.

## 6. Enforcement

Any Town Land Use Code Enforcement Officer, duly appointed by the Municipal Officers, has jurisdiction to administer and enforce the terms of this ordinance locally, and outstanding violations are also subject to authorized enforcement action(s) in District Court pursuant to Rule 80(K) of the Maine Rules of Civil Procedure.

Violations of this Ordinance shall be treated in the following manner.

A. A Land Use Code Enforcement Officer will issue, in writing, a Notice of Violation & Order to Correct, notifying a Landlord of the violation, the Landlord's obligations under this Ordinance, steps required to remedy the situation, including a reasonable timeline for doing so, potential penalties for not doing so within the specified time, and of the right to appeal the Land Use Code Enforcement Officer's interpretation of this Ordinance to the Berwick Board of Appeals. Two copies of this notice shall be sent to the Landlord, one via regular mail and one via certified mail with return receipt requested. Each shall be mailed to the Landlord's current address of record on file in the Assessors' Agent's files.

B. If the noted violation persists beyond the timeframe specified in the Notice of Violation & Order to Correct specified in section A, above, the Town Land Use Code Enforcement Officer shall subsequently mail, by the same methods prescribed in section A, above, a Notice of Violation and Penalty & Order to Correct, notifying a Landlord of the violation, the Landlord's obligations under this Ordinance, steps required to remedy the situation, including a reasonable timeline for doing so, a penalty of ~~\$100.00~~ **\$500** per day commencing on the day following the expiration of the timeframe for compliance set forth in the first Notice of Violation in Section A, above, and of the right to appeal

the Land Use Code Enforcement Officer's interpretation of this Ordinance to the Berwick Board of Appeals.

~~C. If the noted violation persists beyond the timeframe specified in the Notice of Violation and Penalty & Order to Correct in section B, above, the Town Land Use Code Enforcement Officer shall subsequently mail, by the same methods prescribed in section A, above, a second Notice of Violation and Penalty & Order to Correct, notifying a Landlord of the violation, the Landlord's obligations under this Ordinance, steps required to remedy the situation, including a reasonable timeline for doing so, a penalty of \$250.00 per day commencing on the day following the expiration of the timeframe for compliance set forth in the second Notice of Violation in Section B, above, and of the right to appeal the Land Use Code Enforcement Officer's interpretation of this Ordinance to the Berwick's Board of Appeals.~~

D. If the noted violation persists beyond the timeframe specified in the Notice of Violation and Penalty & Order to Correct in section C, above, the Town Land Use Code Enforcement Officer shall subsequently refer the matter, and all related materials, to the Town Manager for presentation to the Municipal Officers at their next regular meeting for consideration fo discretionary land use enforcement legal action.

## 7. Penalties

Penalties for non-compliance with this Ordinance shall be the same as those set forth for land use violations in 30 –A M.R.S. Section 4452, which is hereby incorporated by reference, as it may be amended from time to time, subject to the caps established in section 6, Enforcement, above.

Instituting penalty caps in section 6, Enforcement, above, which are lower than those established in 30-A M.R.S. Section 4452 is intended to allow administration of this Ordinance locally with clarity.

No section of this Ordinance is intended to be construed as a waiver of any Town rights to collect penalties or restitution of different amounts than those established in this Ordinance, including reasonable attorney's fees, under 30-A M.R.S. Section 4452 if a land use enforcement legal action becomes necessary to compel compliance.

## 8. Appeals Procedure

Appeal may be taken from any decision of the Code Enforcement Officer under this Ordinance to the Berwick Board of Appeals, on application forms available and provided by the Town Land Use Code Enforcement Officer for such purpose, within 30 days in accordance with the provisions set forth in 30-A M.R.S. Section 2691(4). Further rights to appeal, if any, are as established by State law and the Maine Rules of Civil Procedure.