

Town of Bar Harbor, ME  
Wednesday, August 8, 2012

## Chapter 64. DISORDERLY HOUSES

[HISTORY: Adopted by the Town Council of the Town of Bar Harbor 5-21-2002. Amendments noted where applicable.]

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### GENERAL REFERENCES

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Health and sanitation — See Ch. 109.

Noise — See Ch. 139.

#### § 64-1. Title.

This chapter shall be known and may be cited as the "Disorderly House Ordinance of the Town of Bar Harbor."

#### § 64-2. Purpose and findings.

- A. The purpose of this chapter is to protect the health, safety and welfare of the residents of the Town of Bar Harbor by eliminating the proliferation of residences harboring occupants who disturb the peace and tranquillity of their neighborhoods.
- B. The Town Council finds that:
- (1) Chronic unlawful or nuisance activity of various kinds on and near disorderly properties adversely affects the health, safety and welfare of citizens and diminishes the quality of life in neighborhoods where this chronic activity occurs. Chronic unlawful or nuisance activity constitutes a public nuisance and should be subject to abatement.
  - (2) The Town has a substantial and compelling interest in protecting the health, safety and welfare of its citizens and the neighborhoods affected by chronic unlawful or nuisance activity.
  - (3) The processes presently available do not adequately control chronic unlawful or nuisance activity or its detrimental effects on citizens and neighborhoods where such chronic activity occurs.
  - (4) Establishing the proposed regulatory scheme will alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Chief of Police.
- C. To obtain benefits referred to in the previous subsections, the Council adopts the following chapter.

#### § 64-3. Definitions.

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

##### **BUILDING**

Any building, dwelling, dwelling unit, rooming house, rooming unit, tent, camping trailer, camping site or other structure or place occupied either temporarily or permanently by human beings.

##### **CHIEF**

The Chief of Police of the Town of Bar Harbor or his/her designee.

### **DISORDERLY ACTIVITIES**

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, tenant or occupant, which would have a tendency to disturb unreasonably the community, the neighborhood or an ordinary individual occupying property in or near the disorderly activity, including but not limited to loud music; boisterous parties; excessive loud or unnecessary noises emanating from within the building which are audible outside the building; fights within the building or in its vicinity involving occupants of the building or their invitees; occupants of the building or their invitees being intoxicated outdoors in the vicinity of the building; the arrest and conviction of occupants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; and other similar activities in the building or outside the building itself.

### **DISORDERLY EVENT**

A complaint of a disorderly activity to which the Police Department responds and which the Police Department determines to be substantiated. Multiple responses to a single building which occur within a twelve-hour period shall be counted as a single disorderly event, and a subsequent disorderly event shall not be deemed to have occurred until the Police Department has notified the owner, by telephone or as provided below, of the previous complaint and response.

### **DISORDERLY HOUSE**

Any building at which the Police Department has substantiated four disorderly events.

### **OWNER**

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 Bar Harbor.

### **POLICE DEPARTMENT**

The Police Department of the Town of Bar Harbor.

### **§ 64-4. Documentation of complaints.**

The Police Department shall document all responses to complaints of disorderly activities and classify each as either a substantiated disorderly event or unfounded complaint at the sole discretion of the Police Department.

### **§ 64-5. Notice of disorderly house.**

Whenever the Police Department substantiates a disorderly event, the Department shall notify the owner according to the number of prior disorderly events, if any, as provided below.

- A. First disorderly event. At the earliest practicable moment, but within not more than five calendar days after the first disorderly event at a building, the Police Department shall deliver in hand to the owner or send by first class mail a copy of this chapter and a notice advising the owner that the Police Department has substantiated a disorderly event at his or her building. A copy of the notice shall be provided to the Town Council.
- B. Second disorderly event. At the earliest practicable moment, but within not more than three calendar days after the second disorderly event at a building, the Police Department shall deliver in hand to the owner or send by first class mail a copy of this chapter and a notice advising the owner that the Police Department has substantiated a second disorderly event at his or her building. A copy of the notice shall be provided to the Town Council.
- C. Third disorderly event. At the earliest practicable moment, but within not more than three calendar days after the third disorderly event at a building, the Police Department shall deliver in hand to the owner or send by certified mail, return receipt requested, a copy of this chapter and a notice advising the owner that the Police Department has substantiated a third disorderly event at his or her

building and warning the owner that his or her building will be classified as a disorderly house if there is a fourth disorderly event. A copy of the notice shall be provided to the Town Council.

D. Fourth disorderly event. At the earliest practicable moment, but within not more than three calendar days after the fourth disorderly event at a building, the Police Department shall deliver in hand to the owner or send by certified mail, return receipt requested, a copy of this chapter and a notice advising the owner that the Police Department has substantiated a fourth disorderly event at his or her building and that said building has been classified as a disorderly house. The notice shall advise the owner that he or she or his or her legal counsel must meet with the Chief of Police within seven days of the date that the written notification was mailed or delivered in hand, or such other time as agreed by the Chief, to identify ways in which the problems which have been identified will be eliminated. A copy of the notice shall be provided to the Town Council.

(1) At the time of said meeting, the owner shall provide to the Town the following documentation:

- (a) An up-to-date list of all tenants and/or other authorized occupants of the disorderly house;
- (b) Copies of all leases with tenants residing in the disorderly house (confidential financial information may be expunged); and
- (c) Documentation of any other written or verbal arrangements authorizing occupancy of the disorderly house.

(2) At the meeting, the owner must agree to take effective measures to address the disorderly house, which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be implemented within one week of the meeting unless another date is agreed upon by the Chief. Said written agreement shall be signed by the Chief and the owner. If the owner fails or refuses to enter into such an agreement at the conclusion of the meeting, the Chief shall refer the matter to the Town Council for a hearing and possible closure of the disorderly house to occupancy.

E. Delivery of notices. Any notice telephoned, mailed or delivered to any owner as provided in this chapter shall be effective as to the owner identified in the notice notwithstanding such owner's refusal to accept delivery of the notice and notwithstanding any failure of any other owner to actually receive notice.

## **§ 64-6. Enforcement.**

A. Failure to remedy conditions leading to disorderly house classification.

(1) It is a violation of this chapter for any owner to:

- (a) Refuse to meet with the Chief as provided in § 64-5D;
- (b) Refuse to enter into an agreement to take effective measures to address the disorderly house;
- (c) Take only measures which the Chief determines are not actually effective in addressing the disorderly house; or
- (d) Fail to implement the agreement reached with the Chief to address the disorderly house.

(2) If the Chief determines that any such violation has occurred, the Chief shall notify the owner and the Town Clerk that the matter is referred to the Town Council for a hearing on closure of the disorderly house to occupancy as provided in Subsection B below.

B. Hearing before the Town Council. Upon being informed by the Chief that an owner has been referred for a hearing for violation of this chapter, the Town Clerk shall provide written notice to the owner, either in hand or by certified mail, return receipt requested, and to all owners of land

within 300 feet of the owner's premises by first class mail, stating the time and place where the Council will conduct a public hearing to consider whether the Council will order the disorderly house closed to occupancy as provided in Subsection C below.

- C. The Council shall hold the hearing no earlier than seven days after the mailing or in-hand delivery of the notice to the owner of the disorderly house. Following the hearing, the Town Council, by a preponderance of the evidence, shall make a determination of whether the owner has committed a violation of this chapter.
- (1) If the Town Council finds that the owner has committed a violation of this chapter but the owner has committed no prior violation of this chapter within 12 months of the date of the current violation, the Council shall order the disorderly house closed to occupancy for no less than 30 and no more than 120 days.
  - (2) If the Council finds that the owner has committed a violation of this chapter and the owner has committed a prior violation of this chapter within the 12 months prior to the current violation, the Council shall order the disorderly house closed to occupancy for no less than 60 and no more than 180 days.
- D. Effective date of closure. The Town Council order closing a disorderly house to occupancy shall take effect 10 days following the date of the order. Within 24 hours of the Town Council order, the Chief of Police shall post the closed disorderly house with a notice prohibiting building occupancy between the dates designated by the Town Council and showing the fine for occupancy during this period. Removal of said notice by the occupants, owner or others shall not affect the validity of the order against the owner or any person having actual knowledge of the closure.
- E. Occupancy in violation of chapter. No person shall occupy a disorderly house which the Town Council has closed against occupancy, nor shall any owner permit the occupancy of any closed disorderly house. Occupancy of a closed disorderly house shall be prima facie evidence that the owner has permitted such occupancy, unless the owner demonstrates that the occupants remained in the disorderly house despite the owner's having taken all legal actions necessary to remove them promptly after the date of the Council order of closure, including, where available to the owner, an action for forcible entry and detainer.

#### **§ 64-7. Violations and penalties.**

Any violation of this chapter or any provision thereof shall subject the violator to fines as provided under the general penalty set forth in this Code. *Editor's Note: See Ch. 1, General Provisions, § 1-18.* Each day of a continuing violation shall constitute a separate offense.

#### **§ 64-8. Additional remedy; injunction.**

Any violation of this chapter or any provision thereof shall be deemed a public nuisance and may be subject additionally to abatement by a restraining order or injunction issued by a court of competent jurisdiction in addition to the general penalty set forth in this Code.