

**ARTICLE VI. DISORDERLY HOUSES**

**Sec. 5-170. Title.**

This Article shall be known as the "City of South Portland Disorderly House Ordinance."

**Sec. 5-171. Purpose.**

The purpose of this Article is to protect the health, safety, and welfare of the residents of the City of South Portland by eliminating the proliferation of properties with occupants who disturb the peace and tranquility of their neighborhoods.

**Sec. 5-172. Legislative findings.**

The City Council hereby finds that:

(a) The City has a substantial and compelling interest in protecting the health, safety, property, and welfare of its citizens and the neighborhoods affected by chronic unlawful or nuisance activity.

(b) Chronic unlawful or nuisance activity of various kinds on and near disorderly houses 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.

(c) The existing ordinances and enforcement processes do not adequately control chronic unlawful or nuisance activity or its detrimental effects on citizens and neighborhoods where such chronic activity occurs.

(d) Establishing the regulatory scheme contained herein will alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Police Department.

**Sec. 5-173. Disorderly houses prohibited.**

(a) No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit (hereinafter jointly and severally "building") which is a disorderly house as defined herein.

(b) A "disorderly house" is any building which:

(1)

(2)

The police have visited a minimum number of times in any thirty (30) day period, as set forth in paragraph (3) below, in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and that would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; other similar activities in the building or outside the building itself; or

The police have visited three (3) or more times in any thirty (30) day period in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and involve the arrest or summons of owners or tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law, or create a reasonable suspicion that illegal drug use or sales under 17-A M.R.S.A. Chapter 45 or prostitution or public indecency under 17-A M.R.S.A. Chapter 35 has occurred.

(3)

The following table delineates the number of police visits per  
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dwelling size which create a disorderly house under paragraph (1)  
above:

(c) The situation to which the visit pertains shall be documented by the Police Department. Such documentation may include sworn affidavits by named citizens that may be sufficient to create a reasonable suspicion said illegal activity has occurred.

**Sec. 5-174. Notice of disorderly house.**

(a) Whenever the Police Department has identified a building as a disorderly house, it shall cause written notification of the events that form the basis for that designation to be given to the owner as long as that owner has registered in accordance with Article VII of this Chapter (Disclosure of Building Ownership). Such notice shall be sufficient for all legal purposes. The notice shall require the owner to meet with representatives of the City (including the Police Department) within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Police Chief or his or her designee, to identify ways in which the problems that have been identified will be eliminated.

(b) At the time of said meeting, the owner shall be obligated to provide to the City the following documentation:

UNITS PER BUILDING

NUMBER OF VISITS BY POLICE IN ANY 30-DAY PERIOD

5 or fewer

3

6 to 10

4

11 or more

5

(1) (2)

(3) (4)

A copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy;  
Copies of all leases or occupancy agreement(s) with tenants or other persons residing in the building (confidential personal or financial information may be omitted);

Contracts with any property manager or other person responsible for the orderly operation of the building; and

An accurate and up to date disclosure of building ownership form as required by Article VII of this Chapter.

In addition, the owner will 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 with the City and shall be implemented within one (1) week of said meeting unless another date is agreed upon by the Police Department. The Police Chief or his or her designee has authority to execute such agreements on behalf of the City. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this ordinance, and the City may file a complaint in court seeking all remedies permitted by law.

(c) If the same building should be classified as a disorderly house on a subsequent occasion within three (3) years, then the City is under no obligation to meet with the owner but may, after notice and hearing before the City Council, condemn and post the building or any units therein against occupancy, and/or proceed directly with a complaint to court seeking all remedies permitted by law.

(d) The notices provided for in this section may be given to an owner who has not complied with Article VII of this Chapter, but are not required. If an owner has not complied with Article VII of this Chapter, notice given to any person, including any legal entity having the right of legal title or the beneficial interest in the disorderly house or any portion thereof, as that interest is recorded in the assessing records of the City or the Registry of Deeds of Cumberland County, shall be sufficient for all legal purposes.

**Sec. 5-175. Appeal process.**

The owner of property that has been classified as a disorderly house by the Police Department may appeal such classification in writing to the City Manager within fourteen (14) days of such classification. In the event of a timely appeal,

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the City Manager will provide the property owner and the Police Chief with seven (7) days notice of a hearing date and time. At such hearing, the property owner and the Police Chief shall provide the City Manager with all relevant information regarding the property and the appeal. The City Manager shall issue a written decision on the appeal within fourteen (14) days of the hearing.

**Sec. 5-176. Enforcement.**

It shall be the duty of the Police Department to administer and enforce the provisions of this Article. If the owner (a) refuses to meet with representatives of the City as set forth in Sec. 5-174(a) above, (b) refuses to agree to take effective measures to address the disorderly house, (c) takes ineffective measures to address the disorderly house as determined by the City, (d) fails to implement the agreement reached with the City to address the disorderly house, or (e) if, in the discretion of the City, the disorderly house requires immediate posting, the City may condemn and post the building or any units therein against occupancy, and/or may file a legal action against the owner and/or violator seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief.

**Sec. 5-177. Violations.**

Any person violating any of the provisions of this Article or failing or neglecting or refusing to obey any order or notice of the Police Department issued hereunder shall be subject to a penalty as provided herein.

**Sec. 5-178. Civil penalties.**

Any person who is found to be in violation of any provision of this Article shall be subject to a civil penalty of not less than one thousand dollars (\$1,000.00) and not more than two thousand dollars (\$2,000.00), or as otherwise provided by 30-A M.R.S.A. § 4452, as may be amended from time to time. Each violation of a separate provision of this Article, and each day of violation, shall constitute separate offenses. In addition, if the City is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the City in the enforcement of this Article, including, but not limited to, staff time, attorney's fees, and costs. All civil penalties shall inure to the benefit of the City of South Portland.