

Order 35-07/08

Given 1<sup>st</sup> reading & Referred to Public Safety on 8/6/07

Public Hearing, Amended & Passed 8/20/07 8-0 (Cohen gone)

**REVISED AMENDMENT AS RECOMMENDED BY THE PUBLIC SAFETY COMMITTEE 8-14-07**

NICHOLAS M. MAVODONES (MAYOR)  
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**CITY OF PORTLAND**  
IN THE CITY COUNCIL

JAMES I. COHEN (5)  
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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS)  
SECTIONS 6-116.1 and 6-116.2 (Disorderly Houses)**

**RE: DRUG VIOLATIONS IN DISORDERLY HOUSES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Sections 6-116.1 and 6-116.2 are hereby amended as follows:*

**Sec. 6-116.1. Disorderly houses.**

(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) the police have visited eight (8) or more times in any thirty (30) day period in response to situations which are created by the owner, tenants, or tenants' cohobitees, guests or invitees and which would have a tendency to disturb unreasonably 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; ~~the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law;~~ other similar activities in the building or outside the building itself- ; or

(2) 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 tenants' cohobitees, guests or invitees and involve the arrest and conviction of 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; or

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

(Ord. No. 36-98, § 1, 4-22-98; Substitute Ord. No. 52-00, §1, 8-7-00)

#### **Sec. 6-116.2. Notice of disorderly house.**

(a) Hot spots. Whenever a building has been visited by the police in response to a disturbance described in section 6-116.1(b)(1) four (4) times, but less than eight (8) times in any thirty (30) day period, in relation to incidents involving a disorderly house or in response to activities that involve a criminal conviction or reasonable suspicion of criminal activity described in section 6-116.1(b)(2) one (1) time in any thirty (30) day period, the police department, the director of planning and urban development, or any other agent designated by the city manager (hereinafter referred to as the "city") ~~may~~ shall notify the owner of the circumstances involving the said visits~~,~~

~~The city must notify under this paragraph (a) an owner whose building is listed on a monthly police hot spots report with four (4) or more police visits as described in section 6-116.1, paragraph (b) above as long as the owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership)., and s~~ Such notice shall be deemed sufficient for all legal purposes.

(b) Disorderly houses. Whenever a building has been identified as a disorderly house by the city, it shall cause written notification of the events which form the basis for that designation to be given to the owner as long as that owner has

registered in accordance with section 6-150 et seq. (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 and the director of planning and urban development or their designee(s)) within five (5) business days from the date of the written notification, or such other time as is agreed upon by the director of planning and urban development, to identify ways in which the problems which have been identified will be eliminated.

At the time of said meeting, the owner shall be obligated to provide to the city the following documentation:

- (1) 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;
- (2) copies of all leases with tenants residing in the building;
- (3) contracts with any property manager or other person responsible for the orderly operation of the building;
- (4) an accurate and up to date disclosure of building ownership form as required in 6-150 et seq.

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 and the director of planning and urban development or his or her designee. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this housing code, and the city shall file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same building should be classified as a disorderly house on a subsequent occasion, then the city is under no obligation to meet with the owner but may condemn and post the building or any units therein, and/or proceed directly with a complaint to the district court seeking all compensatory and equitable relief permitted by law.

(c) The notices provided for in this section may be given to an owner who has not complied with section 6-150, but are not required.