

Order 165-10/11
Given first reading 3/21/11

Public Hearing and Passage as amended 8-0 (Anton absent)

NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
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CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS)
ARTICLE V. HOUSING CODE
SECTIONS 6-116.1, 6-116.2, 6-116.3, 6-131, AND 6-203
ARTICLE IX. DISORDERLY HOUSES**

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

1. *That Sections 6-116.1, 6-116.2 6-116.3 and 6-131 are hereby deleted in their entirety:*

2. *That Section 6-130 is hereby amended as follows:*

Sec. 6-130. 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 building authority issued hereunder shall be subject to a penalty as provided in section 6-1.

Deleted: 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; other similar... [1]

Deleted: Sec. 6-131. Cost of service for responses to disorderly houses.

¶
(a) Whenever the police department is required to respond to a situation at a disorderly house, as defined in section 6-116.1, which constitutes the ninth (9th) or greater response in any thirty (30) day period, the owner of the disorderly house shall pay the cost of service for each such response as follows:¶

¶
(1) For each such response for service the owner shall pay fifty dollars (\$50.00) which shall be in addition to any penalty to which the owner may be subject.¶ ... [2]

Deleted: 1-15

3. That Chapter 6, Article IX is hereby enacted to read as follows:

ARTICLE IX. DISORDERLY HOUSES

Sec. 6-200. 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) 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' cohabittees, guests or invitees and which 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

Deleted: eight (8) or more times

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(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 owner's or tenants' cohabittees, guests or invitees and involve the arrest 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; or

Deleted: and conviction

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

<u>Units per building</u>	<u>Number of visits by police in any 30-day period</u>
<u>5 or fewer</u>	<u>3</u>
<u>6 to 10</u>	<u>4</u>
<u>11 or more</u>	<u>5</u>

(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.

Sec. 6-201. Notice of disorderly house.

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) 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 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

Deleted: (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 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") shall notify the owner of the circumstances involving the said visits, as long as the owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership). Such notice shall be deemed sufficient for all legal purposes.

Deleted: (b) *Disorderly houses.*

Deleted: and the director of planning and urban development or their designee(s)

Deleted: director of planning and urban development

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. 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 may file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

Deleted: and the director of planning and urban development or his or her designee

Deleted: shall

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 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.

Sec. 6-202. Enforcement.

If the owner (a) refuses to agree to take effective measures to address the disorderly house, (b) takes ineffective measures to address the disorderly house as determined by the city, (c) fails to implement the agreement reached with the city to address the disorderly house or (d) if, in the discretion of the city, the disorderly house requires immediate posting, the city may condemn and post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws.

Deleted: ,

Deleted: pursuant to section 6-121 through 6-130

Deleted: The planning and urban development department shall prepare and present a report to the housing committee on or before September 7, 2001, that describes the operation of sections 6-116.1 through 6-116.3 from its effective date for the purpose of evaluation.

Sec. 6-203. Cost of service for responses to disorderly houses.

(a) Whenever the police department is required to respond to a situation at a disorderly house, as defined in section 6-200, which constitutes the ninth (9th) or greater response in any thirty (30) day period, the owner of the disorderly house shall pay the cost of service for each such response as follows:

Deleted: 116.1

- (1) For each such response for service the owner shall pay fifty dollars (\$50.00) which shall be in addition to any penalty to which the owner may be subject.

(b) Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to the penalties provided in section 1-15.

(c) Charges which become payable hereunder shall be treated as liens on the property in question and shall be enforced in accordance with the provisions of section 1-16.

Sec. 6-204. 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 in section 6-1.

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' cohabitees, 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; 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' cohabitees, 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.

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 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") shall notify the owner of the circumstances involving the said visits, as long as the owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership). 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:

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 with tenants residing in the

building;

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

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.

Sec. 6-116.3. Enforcement.

If the owner (a) refuses to agree to take effective measures to address the disorderly house, (b) takes ineffective measures to address the disorderly house as determined by the city, (c) fails to implement the agreement reached with the city to address the disorderly house or (d) if, in the discretion of the city, the disorderly house requires immediate posting, the city may condemn and post the building against occupancy, pursuant to section 6-121 through 6-130, and/or may file a legal action against the owner seeking any and all damages and

remedies to which it is entitled pursuant to state and local laws.

The planning and urban development department shall prepare and present a report to the housing committee on or before September 7, 2001, that describes the operation of sections 6-116.1 through 6-116.3 from its effective date for the purpose of evaluation.

Sec. 6-131. Cost of service for responses to disorderly houses.

(a) Whenever the police department is required to respond to a situation at a disorderly house, as defined in section 6-116.1, which constitutes the ninth (9th) or greater response in any thirty (30) day period, the owner of the disorderly house shall pay the cost of service for each such response as follows:

(1) For each such response for service the owner shall pay fifty dollars (\$50.00) which shall be in addition to any penalty to which the owner may be subject.

(b) Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to the penalties provided in section 1-15.

(c) Charges which become payable hereunder shall be treated as liens on the property in question and shall be enforced in accordance with the provisions of section 1-16.