

TOWN OF GORHAM
DISORDERLY HOUSE ORDINANCE
Adopted: September 3, 2019

SECTION 1. TITLE.

This Ordinance shall be known as the "Town of Gorham Disorderly House Ordinance."

SECTION 2. PURPOSE.

The purpose of this Ordinance is to protect the health, safety, and welfare of the residents of the Town of Gorham by eliminating the proliferation of properties with occupants who disturb the peace and tranquility of their neighborhoods. Nothing contained in this Ordinance is intended to dissuade, discourage or prohibit any person whose safety is in jeopardy, or who is a victim of domestic violence, from contacting the appropriate authorities, including, but not limited to, the Gorham Police Department.

SECTION 3. LEGISLATIVE FINDINGS.

The Town Council hereby finds that:

(a) The Town 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 as well as in not dissuading, discouraging or prohibiting any person whose safety is in jeopardy, or who is a victim of domestic violence, from contacting the appropriate authorities.

(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 of the Town 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 framework contained herein will alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Police Department.

SECTION 4. DISORDERLY HOUSES PROHIBITED.

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

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

(1) The Police Department has visited a minimum number of times in any thirty (30) day period response to situations that 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 any request for police protection or any police intervention in the face of a threat or a perceived threat to person or property, or any request for the assistance of the police to enforce a court order, including, but not limited to, circumstances in which the request for assistance or other police intervention arises from an incident relating to domestic violence, dating violence, sexual assault or stalking against any person at or near the building); owners, tenants, or invitees of owners or 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 five (5) 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 (excluding arrests or summonses arising from an incident relating to domestic violence, dating violence, sexual assault or stalking against any person at or near the building), 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 at the property.

(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.

SECTION 5. 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. The notice shall require the owner to meet with representatives of the Town (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/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 Town the following documentation:

(1) A list 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 or occupancy agreement(s) with tenants or other persons residing in the building (confidential personal or financial information may be omitted);

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

(4) Proof of building ownership.

In addition, the owner shall 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 Town 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 Town. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this Ordinance, and the Town may file a complaint in court seeking all remedies permitted by law as set forth in Section 7 of this Ordinance.

(c) If the same building should be classified as a disorderly house by the Police Department on a subsequent occasion within three (3) years, then the Town is under no obligation to meet with the owner but may, after notice and hearing before the Town Council, condemn and post the building or any units therein against occupancy as set forth in Section 7(a), and/or proceed directly with a complaint in court seeking all remedies permitted by law as set forth in Section 7(a).

(d) The notices provided for in this section may be 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 Town or the Registry of Deeds of Cumberland County, which shall be sufficient for all legal purposes. Notice shall be provided to the owner and any non-owner occupants of the building (if known).

SECTION 6. APPEAL PROCESS.

The owner and/or any non-owner occupant(s) of a building that has been classified as a disorderly house by the Police Department may appeal such classification in writing to the Zoning Board of Appeals within fourteen (14) days of notification of such classification or within seven (7) days of any meeting with representatives of the Town pursuant to Section 5. In the event of a timely appeal, the Zoning Board of Appeals will provide the property owner, non-owner occupants (if known), and the Police Chief with seven (7) days' advance notice of a hearing date and time. At such hearing, the appellant and the Police Chief shall have the right to present oral or documentary evidence for the Zoning Board of Appeals' consideration. The owner and any non-owner occupants shall have the right to explain the events or any mitigating circumstances surrounding the alleged violation(s) and to present oral or documentary evidence for the Zoning Board of Appeals consideration. The Zoning Board of Appeals shall issue a written decision on the appeal, determining whether the violation(s) occurred, within fourteen (14) days of the hearing.

SECTION 7. ENFORCEMENT.

(a) It shall be the duty of the Police Department to administer and enforce the provisions of this Ordinance. If the owner (a) refuses to meet with representatives of the Town as set forth in Section 5 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 Town, (d) fails to implement the agreement reached with the Town to address the disorderly house, or (e) if, in the discretion of the Town, the disorderly house requires immediate posting in order to protect the public health, safety or welfare, the Town 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.

(b) In the event that condemnation and posting the building or any units therein against occupancy is necessary to address the disorderly house, the Town shall provide all non-owner occupants of the building with written notice of said condemnation at least thirty (30) days in advance of the act of condemnation or the posting against occupancy.

(c) In the event of legal action against an owner and/or violator for a disorderly house violation, the Town shall name the non-owner occupants of the building (if known) as parties-in-interest to said legal action.

SECTION 8. VIOLATIONS.

Any person violating any of the provisions of this Ordinance 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.

SECTION 9. CIVIL PENALTIES.

Any person who is found to be in violation of any provision of this Ordinance 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 Ordinance, and each day of violation, shall constitute separate offenses. In addition, if the Town is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the Town in the enforcement of this Ordinance, including, but not limited to, staff time, attorney's fees, and costs. All civil penalties shall inure to the benefit of the Town of Gorham.