

Chapter 51

DISORDERLY PROPERTY

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[HISTORY: Adopted by the Town Council of the Town of Millinocket (date) by Order **** (Code information)].

§ 51-1. Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the residents of the Town of Millinocket by eliminating the proliferation of properties harboring occupants who disturb the peace and tranquility of their neighborhoods.

§ 51-2. 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.
- B. 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.
- 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 nuisance activity through early intervention by the Police Department.

§ 51-3. Scope.

This chapter shall apply to the owner(s) of all residential property, as defined in § X-4, located in the Town of Millinocket.

§ 51-4. Definitions.

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

DISORDERLY ACTIVITIES — Situations created, originating, or conducted within a building or within the boundaries of the property on which a building is located by the owner, occupants, tenants, or customers thereof, or the visitors to any such owner, occupant, tenant, or customer, which would unreasonably disturb the community, the neighborhood, or an ordinary individual of normal sensitivities at or beyond the property line, including but not limited to:

A. Disorderly Conduct:

Loud music; loud or otherwise disruptive gatherings; excessive, loud or unnecessary noises audible beyond the property line; (in accordance with MRSA Title 17-A Section 501)

B. Fireworks or other explosives prohibited by Town of Millinocket Code;

C. Altercations occurring on the property, such as fighting, brawling or similar activities;

D. Out-of-control individuals or disorderly conduct;

E. Drug and/or alcohol-related offenses; or

F. Other similar activities occurring within or outside any building located on the property.

DISORDERLY EVENT — Any twenty-four-hour period commencing at noon and ending at noon on the following day during which a police officer observes or the Police Department receives one or more complaints of a disorderly activity to which the Police Department responds and substantiates that a disorderly activity has occurred as outlined in § X-7 of this chapter. The Police Officer shall have sole discretion in determining whether a disorderly event has occurred.

DISORDERLY EVENT NOTICE — A document summarizing the findings of the officer investigating a complaint or the officer's observations. The notice shall contain the time, the property identification, the identification of the officer, basis of the complaint or observations, citation of this chapter and identification of the provisions violated and other items deemed appropriate by the Officer.

DISORDERLY PROPERTY — Any residential property for which a Police Officer has notified the owner that the Police Department has documented and substantiated two or more disorderly events occurring on the property within 180 days.

OWNER — Any person, including any legal entity, having the right of legal title or the beneficial interest in a residential property or any portion thereof, as that interest is recorded in the tax records of the Town of Millinocket or the Registry of Deeds of Penobscot County.

POLICE OFFICER — Any Police Officer with jurisdiction serving within the Town of Millinocket.

RESIDENTIAL PROPERTY —

- A. Lot(s), plot(s), or parcel(s) of land on which a residential building(s) or a building(s) of mixed occupancy is located, or vacant land zoned residential;
- B. Residential building(s), including one-family dwelling(s), multiple-family dwelling(s), and rooming houses or boardinghouses;
- C. Residential occupancies in building(s) of mixed occupancy;

- D. For the purpose hereof, a "mixed-occupancy building" means a building used for any purpose that also contains a residential occupancy therein.

§51-5. Declaration of public nuisance.

- A. A disorderly property is hereby declared to be a public nuisance.
- B. The owner of a residential property shall provide sufficient control, oversight, monitoring, and management of the property to prevent the same from becoming a disorderly property.
- C. The owner of a disorderly property shall be responsible for taking all necessary measures to abate or eliminate the public nuisance.

§ 51-6. Disorderly property prohibited.

No owner of residential property shall maintain or allow to be maintained or to exist on the owner's property a disorderly property as defined in this chapter. Each and every day that a disorderly event shall be permitted to occur on the property after it becomes classified by a Police Officer as a disorderly property shall constitute a separate offense.

§ 51-7. Documentation and substantiation of complaints.

The Police Department shall document all responses to observations or complaints of disorderly activities. In the absence of a complaint, an officer may investigate a disorderly activity based upon the officer's own independent observation. The officer(s) responding to a disturbance complaint or the officer's own observation shall, at the officer's sole discretion, classify each incident as either a substantiated disorderly activity or as an unsubstantiated complaint or observation. The officer(s) shall identify all properties that are the object of the complaint or observation. The officer shall issue a verbal and/or written warning to any person observed by the officer to be present at the property that is the object of the complaint or observation, advising them to cease any further disorderly activity on the property. The responding officer(s) need not identify a single individual associated with the complaint or observation at the property.

§ 51-8. Notice of disorderly events or disorderly property.

Whenever a Police Officer determines that a disorderly event has occurred, the officer shall notify the owner of the property as to their findings according to the number and frequency of prior disorderly events, if any, as provided below.

- A. First disorderly event. At the earliest possible time, but within not more than seven days after the first disorderly event at a property, the Police Officer shall notify the owner of the property that a disorderly event has been documented. The notice shall describe the nature of the event and advise the owner that continued disorderly events may result in the property being classified as a disorderly property under this chapter. The notice shall further inform the owner of the applicable provisions of this chapter and encourage the owner to take such steps as may be necessary to prevent future disorderly events. Copies of the notice shall be provided to any tenant(s) of dwelling units associated with the disorderly event, the Town Manager, and the Code Enforcement Officer.
- B. Second disorderly event. At the earliest possible time, but within not more than seven days after the second disorderly event at a property, the Police Officer shall serve the owner with a copy of this chapter and a disorderly event notice advising the owner that the Police Department has documented a second disorderly event at the owner's property. In the event that the property has accumulated at this time two disorderly events within a 180-day period, the Police Officer shall further notify the owner that the property has been classified as a disorderly property and that the owner is in violation of this chapter and is subject to a remediation process as set forth in § X-9 of this chapter. Copies of the disorderly event notice shall be provided to any tenant(s) of dwelling units associated with the disorderly event, Town Council members, the Town Manager, Code Enforcement Officer, and the Fire Chief.
- C. Method of service.
 1. For the purposes of this section, notices to the owner shall be served simultaneously in two ways:
 - a. By certified mail, with address correction and return receipt requested; and
 - b. By first class mail with address correction requested.
 2. For the purposes of this section, a mailing to the owner at the address maintained in the records of the Assessor shall constitute adequate notice. Service may also be made by any alternative method authorized by state law or the Maine Rules of Civil Procedure. If the owner has provided the Police Department or Town Clerk with written notification of the name and address of a duly authorized agent, notice may be served on the agent.

§ 51-9. Remediation process.

Once a property has been classified as a disorderly property by the Police Officer, the owner shall be required to undertake a plan of remediation to abate and eliminate that public nuisance in accordance with this section.

- A. The owner, or the owner's duly authorized agent, shall meet with a representative of the Police Department or their designee within 14 days of the notice of the disorderly property classification.
- B. At the time of this meeting the owner, or the owner's duly authorized agent, shall provide to the Town the following documentation:
 - 1. A list of all dwelling units and their postal or Emergency 911 address designations as they are located on the property;
 - 2. A list of the names of all tenants and other authorized occupants of the property at the time of the disorderly property classification, and the dwelling units that they occupy.
 - 3. A copy of the terms and conditions contained in any occupancy agreement(s) or other lease document(s) agreed to by tenants of the disorderly property (confidential personal or financial information may be omitted).
 - 4. Documentation of any other written or verbal arrangements authorizing occupancy of the disorderly property that may exist in addition to a lease agreement.
- C. At the time of this meeting, the representative of the Police Department or their designee shall provide to the owner, or the owner's duly authorized agent, a complete record of all municipal actions that involved the property in question that were taken in the 360-day period preceding the disorderly property classification, including but not limited to records of all disorderly events, disturbance complaints, code enforcement complaints or inspections, and fire-safety inspections or offenses.
- D. Remediation agreement. At the meeting, the owner, or the owner's duly authorized agent, must agree to take effective measures to address the disorderly property, which measures must be satisfactory to the Police Department and shall be memorialized in a written agreement at the conclusion of the meeting. Remedial measures identified in the agreement shall be implemented within 14 days of the meeting, and a written report describing the implementation of the remedial measures shall be submitted to the Police Department within 21 days of the meeting. The Police Department and the owner, or the owner's duly authorized agent, shall sign this written agreement, and copies shall be provided to the members of the Town Council and the Town Manager. In the event that the owner or the owner's duly authorized agent fails or refuses to enter into such a written agreement, the Police Department may pursue an enforcement action as authorized under § X-12. Furthermore, in the event that the owner or the owner's duly authorized agent fails to implement the remedial measures, file the written report or otherwise meet the obligations of the agreement within the applicable timetable to the satisfaction of the Police Department, the Department may pursue an enforcement action under

- E. If the owner enters into a remediation agreement acceptable to the Police Department, the Department may delay commencement of an enforcement action if, in the opinion of the Police Department, the owner is making a good-faith effort to implement the remediation agreement and no new disorderly event occurs on the property.

§ 51-10. Duration of disorderly property classification.

The disorderly property classification shall be removed from the property by the Police Department upon the Department's determination of all of the following:

- A. The passage of 180 days from the date of the last disorderly event without the occurrence of any substantiated disorderly events;
- B. Payment of all civil penalties and costs arising from any enforcement action;
- C. Verification by Town official(s) that all deficiencies, if any, discovered during any inspection under § X-9 have been corrected; and
- D. Satisfactory implementation of the remediation agreement required under § X-9.

§ 51-11. Violations and penalties.

Any person who is found to be in violation of any provision of this chapter shall be subject to a civil penalty of \$500 to \$1,000. Each violation of a separate provision of this chapter, 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 chapter, including, but not limited to, staff time, attorneys' fees, and other relative costs. All civil penalties shall incur to the benefit of the Town of Millinocket.

§ 51-12. Enforcement.

- A. It is a further violation of this chapter for any owner to:
 - 1. Refuse to meet with the Police Department as required by § X-9, or to have the owner's duly authorized agent meet with the Police Department or their designee.
 - 2. Refuse to enter into a written remediation agreement as required by § X-9.
 - 3. Fail to fully implement the remediation agreement in compliance with the timetable specified in the agreement.

4. Fail to abate or eliminate the disorderly property public nuisance.
 5. Fail to submit the written report to the Police Department as required by § X-9.
- B. The Police Department, with the approval of the Town Manager, is authorized to institute, or cause to be instituted, any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this chapter and to seek the abatement and elimination of the disorderly property public nuisance.

§ 51-13. Severability.

In the event that any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

§ 51-14. Effective date.

The provisions of this chapter shall take effect 30 days after enactment.