

## CITY OF BANGOR

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## Chapter 99

### Disruptive Property

[HISTORY: Adopted by the City Council of the City of Bangor 1-14-2013 by Ord. No. 13-051. Amendments noted where applicable.]

#### GENERAL REFERENCES

Noise — See Ch. 194.

Property maintenance — See Ch. 223.

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## Chapter 99

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§ 99-1

Purpose.

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

§ 99-2

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 disruptive 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 or nuisance activity through early intervention by the Chief of Police.

#### § 99-3

##### Scope.

This chapter shall apply to the owner(s) of all residential property, as defined in § 99-4, located in the City of Bangor.

#### § 99-4

##### Definitions.

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

##### DISRUPTIVE 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, owner's employees, owner's representatives, 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.

Loud music;

B.

Boisterous gatherings;

C.

Excessive, loud or unnecessary noises audible beyond the property line;

D.

Altercations occurring on the property, such as fighting, disruptive conduct, brawling or similar activities;

E.

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

#### DISRUPTIVE 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 Police Chief.

#### DISRUPTIVE EVENTS

Any twenty-four-hour period commencing at noon and ending at noon of the following day during which a police officer observes or the Police Department receives one or more complaints of a disruptive activity to which the Police Department responds and substantiates that a disruptive activity has occurred as outlined in § 99-4 of this chapter. The Police Chief shall, after review of all relevant information, determine whether a disruptive event has occurred.

#### DISRUPTIVE PROPERTY

Any residential property for which the Police Chief has notified the owner that the Police Department has documented and substantiated either two or more disruptive events within 60 days; or three or more disruptive events within 120 days; or four or more disruptive events within 180 days; or five or more disruptive events within 360 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 City of Bangor or the Registry of Deeds of Penobscot County.

#### POLICE CHIEF

The acting Chief of Police of the City of Bangor or other official of the Police Department as may be designated by the Police Chief.

#### RESIDENTIAL PROPERTY

A.

Shall mean:

(1)

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

(2)

Residential building(s), including one-family dwelling(s), multiple dwellings, and rooming houses or boardinghouses; or

(3)

Residential occupancies in building(s) of mixed occupancy.

B.

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

#### § 99-5

Declaration of public nuisance.

A.

A disruptive 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 disruptive property.

C.

The owner of a disruptive property shall be responsible for taking all necessary measures to abate or eliminate the public nuisance.

#### § 99-6

Disruptive property prohibited.

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

#### § 99-7

Documentation and substantiation of complaints.

The Police Department shall document all responses to observations or complaints of disturbance or disruptive activities. In the absence of a complaint, an officer may investigate a disruptive activity based upon the officer's own independent observation. The officer(s) responding to a disturbance complaint of the officer's own observation shall, at the officer's sole discretion, classify each incident as either a substantiated disruptive 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 disruptive activity on the property. The responding officer(s) need not identify a single individual associated with the complaint or observation at the property.

#### § 99-8

Notice of disruptive events or disruptive property.

A.

Whenever the Police Chief determines that a disruptive event has occurred, the Police Chief shall notify the owner of the property as to the Chief's findings according to the number and frequency of prior disruptive events, if any, as provided below.

(1)

First disruptive event. At the earliest time possible, but within not more than seven days after the first disruptive event at a property, the Police Chief may serve the owner with a copy of this chapter and a disruptive event notice advising the owner that the Police Department has documented the occurrence of a disruptive event at the owner's property. Copies of the disruptive event notice shall be provided to



City Council members, the City Manager, Code Enforcement Officer and the Fire Chief. The notice shall also advise the owner that subsequent events will result in the property being classified as a disruptive property, and warn the owner that failure to prevent the property from becoming a disruptive property will constitute a violation of this chapter.

(2)

Second disruptive event. At the earliest possible time, but within not more than seven days after the second disruptive event at a property, the Police Chief may serve the owner with a copy of this chapter and a disruptive event notice advising the owner that the Police Department has documented a second disruptive event at the owner's property. In the event that the property has accumulated at this time two disruptive events within a sixty-day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this chapter and is subject to a remediation process as set forth in § 99-9 of this chapter. Copies of the disruptive event notice shall be provided to City Council members, the City Manager, Code Enforcement Officer and the Fire Chief.

(3)

Third disruptive event. At the earliest time possible, but within not more than seven days after the third disruptive event at a property, the Police Chief may serve the owner with a copy of this chapter and a disruptive event notice advising the owner that the Police Department has documented a third disruptive event at the owner's property. In the event that the property has accumulated at this time three disruptive events within a one-hundred-twenty-day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this chapter and is subject to a remediation process as set forth in § 99-9 of this chapter. Copies of the disruptive event notice shall be provided to City Council members, the City Manager, Code Enforcement Officer, and the Fire Chief.

(4)

Fourth disruptive event. At the earliest time possible, but within not more than seven days after the fourth disruptive event at a property, the Police Chief may serve the owner with a copy of this chapter and a disruptive event notice advising the owner that the Police Department has documented a fourth disruptive event at the owner's property. In the event that the property has accumulated at this time four disruptive events within a one-hundred-eighty-day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this chapter and is subject to a remediation process as set forth in § 99-9 of this chapter. Copies of the disruptive event notice shall be provided to City Council members, the City Manager, Code Enforcement Officer, and the Fire Chief.

(5)

Fifth disruptive event. At the earliest time possible, but within not more than seven days after the fourth disruptive event at a property, the Police Chief may serve the owner with a copy of this chapter and a disruptive event notice advising the owner that the Police Department has documented a fifth disruptive event at the owner's property. In the event that the property has accumulated at this time five disruptive events within a three-hundred-sixty-day period, the Police Chief shall further notify the owner that the property has been classified as a disruptive property and that the owner is in violation of this chapter and is subject to a remediation process as set forth in § 99-9 of this chapter. Copies of the disruptive event notice shall be provided to City Council members, the City Manager, Code Enforcement Officer, and the Fire Chief.

B.

Method of service. For the purposes of this section, notices to the owner shall be served in the following ways:

(1)

By certified mail, with address correction and return receipt requested and by first-class mail with address correction requested; or

(2)

In a manner requested in writing by the property owner and by first-class mail with address correction requested.

## § 99-9

Remediation process.

A.

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

B.

If the property has not undergone a comprehensive code and fire-safety inspection within the prior 360 days, the owner must agree to make available the entire property for a comprehensive inspection by the Fire Department and the Office of Code Enforcement and schedule such inspections to be completed as soon as possible, but within 14 days of the notice of the disruptive property classification. Furthermore, the owner shall notify in writing all tenants and occupants of the property of the scheduled inspections and provide copies of such notices to the Police Chief. The owner shall also cooperate fully with the City officials to gain entry to all areas of the property. If the property is an owner-occupied one-family dwelling, the foregoing requirements shall only apply if the Code Enforcement Officer has reasonable grounds to believe that a violation of any applicable codes or ordinances exists on the property.

C.

The owner, or the owner's duly authorized agent, shall meet with the Police Chief either within 14 days of the notice of the disruptive property classification or within 14 days of the completion of the inspections outlined in this section, where such inspections are required.

D.

At the time of this meeting, the owner, or the owner's duly authorized agent, shall provide to the City the following documentation:

(1)

A complete description of the property, including, but not limited to:

(a)

A list of all dwelling units and their postal or Emergency 911 address designation as they are located on the property;

(b)

Floor plans or sketches for all structures located on the property showing the location of all dwelling unit entrances and egress points, sleeping areas, and common areas;

(c)

A site description and sketch acceptable to the Code Enforcement Officer and Fire Chief showing the locations and dimensions of all structures, yards or open spaces or recreational spaces, walkways, parking spaces, driveways, and curb cuts; and

(2)

Other descriptive items as might be requested by the Code Enforcement Officer, Fire Chief or Police Chief.

(3)

Listing of the names of all tenants and other authorized occupants of the property at the time of the disruptive property classification.

(4)

A copy of the terms and conditions contained in any occupancy agreement(s) or other lease document(s) agreed to by tenants of the disruptive property.

(5)

Documentation of any other written or verbal arrangements authorizing occupancy of the disruptive property that may exist in addition to a lease agreement.

E.

At the time of this meeting, the Police Chief shall, to the extent permitted by law, provide to the owner, or the owner's duly authorized agent, documentation of municipal actions that involved the property in question that were taken in the three-hundred-sixty-day period preceding the disruptive property classification, including but not limited to records of all disruptive events, disturbance complaints, code enforcement complaints and inspections, and fire-safety inspections.

F.

Remediation agreement. At the meeting, the owner, or the owner's duly authorized agent, must agree to take effective measures to address the disruptive property, which measures must be satisfactory to the Police Chief and shall be memorialized in a written agreement at the conclusion of the meeting. Remedial measures may include the owner, or the owner's duly authorized agent, taking appropriate steps through the judicial system to terminate the tenancy of the tenant who engaged in disorderly activities. Remedial measures identified in the agreement shall be implemented within 14 days of the meeting. The Police Chief 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 City Council and the City 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 Chief may pursue an enforcement action as authorized under § 99-12.

Furthermore, in the event that the owner, or the owner's duly authorized agent, fails to meet the obligations of the agreement within the specified timetable to the satisfaction of the Police Chief, the Chief may pursue an enforcement action under § 99-12.

G.

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

#### § 99-10

Duration of disruptive property classification.

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

A.

The passage of 180 days from the date of the last disruptive event without the occurrence of any substantiated disruptive events; and

B.

Payment of all civil penalties and costs arising from the enforcement action; and

C.

Verification by City Officials that all deficiencies, if any, discovered during any inspection under § 99-9 have been corrected; and

D.

Satisfactory implementation of the remediation agreement required under § 99-9.

#### § 99-11

##### 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 not less than \$500 and not more than \$1,000. Each violation of a separate provision of this chapter, 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 chapter, including, but not limited to City of Bangor staff time, attorney's fees, and costs. All civil penalties shall inure to the benefit of the City of Bangor.

#### § 99-12

##### Enforcement.

##### A.

It is a further violation of this chapter for any owner to:

##### (1)

Refuse to meet with the Police Chief as required by § 99-9, or to have the owner's duly authorized agent meet with the Chief; or

##### (2)

Refuse to enter into a written remediation agreement as required by § 99-9; or

##### (3)

Fail to fully implement the remediation agreement in compliance with the timetable specified in the agreement; or

##### (4)

Fail to abate or eliminate the disruptive property public nuisance.

B.

The Police Chief, with the approval of the City 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 disruptive property public nuisance.

§ 99-13

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 ordinance shall not be invalidated.

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