

Chapter 20

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***Cross reference**—Administration, ch. 2.

State law reference—Law enforcement officers, 30-A M.R.S.A. § 2671 et seq.

ARTICLE I. IN GENERAL

Secs. 20-1–20-25. Reserved.

**ARTICLE II. RECOVERY OF COSTS FOR POLICE SERVICES AT LARGE
EVENTS ON PRIVATE PROPERTY****Sec. 20-26. Findings.**

The town finds and determines that the control of large parties, gatherings or events on private property is necessary when such continued activity is determined to be a threat to the peace, health, safety or general welfare of the public. Police officers are often required to make several return trips to a location of a party, gathering or event in response to complaints in order to disperse uncooperative participants, and the return of police officers to a location constitutes a drain of personnel and resources often leaving other areas of the town without minimal levels of police protection; all of which creates a significant hazard to the safety of the police officers and to the public in general.

(Ord. of 11-9-92, § 5.10.1)

Sec. 20-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Large event means large parties or gatherings of five or more persons who have assembled or are assembling for a special occasion or for a social activity.

Owner means the person holding title to the property as evidenced by records in the county registry of deeds.

Person responsible for the large event means either the person who owns the property on which the event takes place or, if the property is leased, the lessee/renter of the property. In addition, the person in charge of such property and/or the person who organized the event shall also be considered a person responsible for the large event. If the person responsible for the large event is a minor, the parents or guardians of that minor shall be a person responsible for the large event. Each responsible person shall be jointly and severally liable for payment of the police services fee.

Police services fee, as established by this article, shall include the salaries of the responding officers, at their hourly rate, for the amount of time actually spent in responding to or remaining at the large event; appropriate overhead; the actual cost of any medical treatment to injured officers; and the cost of repairing any damaged town equipment or property, all of which are incurred subsequent to the issuance of a written warning to the person responsible for the large event to control the event so as to prevent or remove any threat to the public peace, health, safety or general welfare.

Special security assignment means the assignment of police officers and services for a subsequent call to a large event location after the issuance of a written warning to the person responsible for the event that the event constitutes a threat to the peace, health, safety or general welfare of the public, or is in violation of a law or ordinance.

(Ord. of 11-9-92, § 5.10.2)

Cross reference—Definitions generally, § 1-2.

Sec. 20-28. Powers and duties of officials.

The police department shall be responsible for the administration and enforcement of this article, including but not limited to the following duties and responsibilities:

- (1) Response to and investigation of complaints that large events are posing a threat to the public peace, health, safety and general welfare, or are otherwise in violation of any law or ordinance.
- (2) Issuance of written warnings to the person responsible for the large event.
- (3) Placement of a special security assignment at large events when necessary or appropriate to prevent or remove any threat to the public peace, health, safety and general welfare, or to otherwise enforce any law or ordinance.
- (4) Keep records of any actions taken under this article.

(Ord. of 11-9-92, § 5.10.3)

Sec. 20-29. Police services at large events requiring more than one response.

(a) A police officer shall issue a written warning to the person responsible for the event the first time he investigates a large event and determines that it poses a threat to the public peace, health, safety and general welfare or that a violation of any law or ordinance is being committed at such event.

(b) If a police officer responds to the same large event a second time within a 24-hour period, it shall be deemed a special security assignment and the person responsible shall be liable for the police services fee.

(c) Nothing in this article shall preclude the officer from enforcing state statutes or other ordinances, including the arrest of violators, at any response to a large event.

(Ord. of 11-9-92, § 5.10.4)

Sec. 20-30. Police services fee.

(a) The police services fee shall be the currently required hourly fee, plus the actual cost of any medical treatment to injured officers and the cost of repairing any damaged town-owned equipment or property. The maximum charge per incident within a 24-hour period shall be \$500.00, plus the cost of any medical treatment or equipment/property repair.

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(b) The town reserves the right to seek reimbursement for actual costs in excess of the maximum police services charge established by the town council through any other available legal remedies or procedures.

(c) The amount of police services fee shall be deemed a debt to the town of the person responsible for the large event and if such person is a minor, that person's parents or guardians. Any person owing such a fee shall pay the fee within 30 days of the date of the invoice therefor. If the person fails to pay such fees within 30 days, the town may initiate legal proceedings to collect such fee, and the responsible person shall be liable for the payment of the costs of collection, including reasonable attorney's fees.

(Ord. of 11-9-92, § 5.10.5)

Sec. 20-31. Billing.

The chief of police shall notify the town treasurer in writing, upon the rendering of police services under this article, of the name and address of the responsible person, the date and time of the incident and the services performed, the costs thereof, and such other information as may be required. The town treasurer shall thereafter cause appropriate billings to be made.

(Ord. of 11-9-92, § 5.10.6)

Sec. 20-32. Affect on criminal prosecution.

Nothing in the adoption or administration of this article shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal prosecution for any violation of the provisions of this article or any state law arising out of the same circumstances necessitating the application of this article.

(Ord. of 11-9-92, § 5.10.7)

Secs. 20-33—20-49. Reserved.

ARTICLE III. DISORDERLY PROPERTY

Sec. 20-50. Purpose.

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

(Ord. No. 04-29, 3-8-04)

Sec. 20-51. Legislative findings.

The town council hereby finds that:

- (1) 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.

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- (2) 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.
 - (3) 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.
 - (4) 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.
- (Ord. No. 04-29, 3-8-04)

Sec. 20-52. Scope.

This article shall apply to the owner(s) of all residential property, as defined in section 20-53, located in the Town of Orono.

(Ord. No. 04-29, 3-8-04)

Sec. 20-53. Definitions.

(a) *Disorderly activities* shall mean 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:

- (1) Loud music;
- (2) Boisterous gatherings;
- (3) Excessive, loud or unnecessary noises audible beyond the property line, except for noises arising from exempt activities under section 13-55 of the town's noise control ordinance;
- (4) Altercations occurring on the property, such as fighting, disorderly conduct, brawling or similar activities;
- (5) Other similar activities occurring within or outside any building located on the property.
- (6) For the purposes hereof, a violation of the requirements of the town's noise control ordinance shall be prima facie evidence of (1), (2), or (3) above.

(b) *Disorderly event* shall mean any 24-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

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substantiates that a disorderly activity has occurred as outlined in section 20-56 of this article. The police chief shall have sole discretion in determining whether a disorderly event has occurred.

(c) *Disorderly event notice* shall mean 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 ordinance and identification of the provisions violated and other items deemed appropriate by the police chief.

(d) *Disorderly property* shall mean any residential property for which the police chief has notified the owner that the police department has documented and substantiated either two or more disorderly events within 60 days; or three or more disorderly events within 120 days; or four or more disorderly events within 180 days; or five or more disorderly events within 360 days.

(e) *Owner* shall mean 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 Orono or the Registry of Deeds of Penobscot County.

(f) *Police chief* shall mean the acting Chief of Police of the Town of Orono or other official of the police department as may be designated by the chief.

(g) *Residential property* 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;
- (2) Residential building(s), including one-family dwelling(s), multiple dwellings, and roominghouses or boarding houses; or
- (3) Residential occupancies in building(s) of mixed occupancy.
- (4) For the purpose hereof, a mixed occupancy building means a building used for any purpose that also contains a residential occupancy therein.

(Ord. No. 04-29, 3-8-04)

Sec. 20-54. 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.

(Ord. No. 04-29, 3-8-04)

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Sec. 20-55. 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 article. Each and every day that a disorderly event shall be permitted to occur on the property after it becomes classified by the chief of police as a disorderly property shall constitute a separate offense.

(Ord. No. 04-29, 3-8-04)

Sec. 20-56. Documentation and substantiation of complaints.

The police department shall document all responses to observations or complaints of disturbance or 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.

(Ord. No. 04-29, 3-8-04)

Sec. 20-57. Notice of disorderly events or disorderly property.

Whenever the police chief determines that a disorderly 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 disorderly events, if any, as provided below.

- (1) *First disorderly event.* At the earliest time possible, but within not more than seven days after the first disorderly event at a property, the police chief shall serve the owner with a copy of this article and a disorderly event notice advising the owner that the police department has documented the occurrence of a disorderly event at the owner's property. Copies of the disorderly event notice shall be provided to town council members, the town manager, code enforcement officer, and the fire chief. The notice shall also advise the owner what subsequent events will result in the property being classified as a disorderly property, and warn the owner that failure to prevent the property from becoming a disorderly property will constitute a violation of this article.
- (2) *Second disorderly event.* At the earliest time possible, but within not more than seven days after the second disorderly event at a property, the police chief shall serve the owner with a copy of this article 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 60-day period, the police chief shall further notify the owner that the property has been classified as a disorderly property and that the owner is in violation

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of this article and is subject to a remediation process as set forth in section 20-58 of this article. Copies of the disorderly event notice shall be provided to town council members, the town manager, code enforcement officer, and the fire chief.

- (3) *Third disorderly event.* At the earliest time possible, but within not more than seven days after the third disorderly event at a property, the police chief shall serve the owner with a copy of this article and a disorderly event notice advising the owner that the police department has documented a third disorderly event at the owner's property. In the event that the property has accumulated at this time three disorderly events within a 120-day period, the police chief shall further notify the owner that the property has been classified as a disorderly property and that the owner is in violation of this article and is subject to a remediation process as set forth in section 20-58 of this article. Copies of the disorderly event notice shall be provided to town council members, the town manager, code enforcement officer, and the fire chief.
- (4) *Fourth disorderly event.* At the earliest time possible, but within not more than seven days after the fourth disorderly event at a property, the police chief shall serve the owner with a copy of this article and a disorderly event notice advising the owner that the police department has documented a fourth disorderly event at the owner's property. In the event that the property has accumulated at this time four disorderly events within a 180-day period, the police chief shall further notify the owner that the property has been classified as a disorderly property and that the owner is in violation of this article and is subject to a remediation process as set forth in section 20-58 of this article. Copies of the disorderly event notice shall be provided to town council members, the town manager, code enforcement officer, and the fire chief.
- (5) *Fifth disorderly event.* At the earliest time possible, but within not more than seven days after the fifth disorderly event at a property, the police chief shall serve the owner with a copy of this article and a disorderly event notice advising the owner that the police department has documented a fifth disorderly event at the owner's property. In the event that the property has accumulated at this time five disorderly events within a 360-day period, the police chief shall further notify the owner that the property has been classified as a disorderly property and that the owner is in violation of this article and is subject to a remediation process as set forth in section 20-58 of this article. Copies of the disorderly event notice shall be provided to town council members, the town manager, code enforcement officer, and the fire chief.
- (6) *Method of service.* 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.

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

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Procedure. If the owner has provided the police chief or town clerk with written notification of the name and address of a duly authorized agent, notice may be served on the agent.

(Ord. No. 04-29, 3-8-04)

Sec. 20-58. Remediation process.

Once a property has been classified as a disorderly 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.

- (1) The owner, or the owner's duly authorized agent, shall meet with the police chief either within 14 days of the notice of the disorderly property classification.
- (2) At the time of this meeting the owner, or the owner's duly authorized agent, shall provide to the town the following documentation:
 - a. A list of all dwelling units and their postal or Emergency 911 address designations as they are located on the property;
 - b. 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.
 - c. 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).
 - d. Documentation of any other written or verbal arrangements authorizing occupancy of the disorderly property that may exist in addition to a lease agreement.
- (3) At the time of this meeting, the police chief 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 and inspections, and fire-safety inspections.
- (4) 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 chief 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 chief within 21 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 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 chief may pursue an enforcement action as authorized

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under section 20-61. Furthermore, in the event that the owner, or the owner's duly authorized agent, fails to (1) implement the remedial measures, (2) file the written report, or (3) otherwise meet the obligations of the agreement within the applicable timetable to the satisfaction of the police chief, the chief may pursue an enforcement action under section 20-61.

- (5) If the owner enters into a remediation agreement acceptable to the police chief, the chief may 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 disorderly event occurs on the property.

(Ord. No. 04-29, 3-8-04)

Sec. 20-59. Duration of disorderly property classification.

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

- (1) The passage of 180 days from the date of the last disorderly event without the occurrence of any substantiated disorderly events;
- (2) Payment of all civil penalties and costs arising from any enforcement action;
- (3) Verification by town officials that all deficiencies, if any, discovered during any inspection under subsection 20-58(1) have been corrected; and
- (4) Satisfactory implementation of the remediation agreement required under section 20-58(5).

(Ord. No. 04-29, 3-8-04)

Sec. 20-60. Civil penalty.

Any person who is found to be in violation of any provision of this article shall be subject to a civil penalty of not less than \$500.00 and not more than \$1,000.00. Each violation of a separate provision of this article, 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 article, including but not limited to staff time, attorney's fees, and costs. All civil penalties shall inure to the benefit of the Town of Orono.

(Ord. No. 04-29, 3-8-04)

Sec. 20-61. Enforcement.

- (a) It is a further violation of this article for any owner to:
 - (1) Refuse to meet with the police chief as required by section 20-58, or to have the owner's duly authorized agent meet with the chief.
 - (2) Refuse to enter into a written remediation agreement as required by section 20-58.

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- (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 chief as required by section 20-58.

(b) The police chief, 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 article and to seek the abatement and elimination of the disorderly property public nuisance.

(Ord. No. 04-29, 3-8-04)

Sec. 20-62. Separability.

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

(Ord. No. 04-29, 3-8-04)