

MEMORANDUM

TO: Councilor Jill Duson, Chair
Members of the Housing and Community Development Committee

FROM: Richard M. Bianculli Jr., Esq., Neighborhood Prosecutor

DATE: April 6, 2018

SUBJECT: Amendments to Chapter 6 re: Disorderly House Ordinance

Attached hereto is a proposed amendment to Section 6-202 of the Portland City Code of Ordinances. The amendment was developed to ensure adequate notice and greater transparency to those individuals who live at an address that has been designated as a disorderly house, but may not have been involved in any of the nuisance incidents or issues that gave rise to said designation.

Amendment Summary

1. Providing Notice of Suit to Tenants Impacted by a Disorderly House complaint – The first amendment to the disorderly house ordinance requires the City to provide notice to tenants once a formal complaint (e.g. typically a Rule 80(k) action) is filed in court against the landlord/owner for enforcement of the Disorderly House ordinance. The tenants would receive notice of the complaint by posting at the premises or regular mail. Following receipt of said notice, tenants would be allowed to join in the matter as interested parties. This provision is important to protect the rights of those tenants that may have not contributed to the incidents that gave rise to the designation of the property as a disorderly house but may be impacted by the relief granted by the Court.

2. Notice to Tenants in a Condemnation action – In extremely severe Disorderly House cases involving an immediate threat to the health and safety of the tenants, the City may be required to move forward with condemnation of the property. The proposed amendment requires the City to provide all tenants of the building with “reasonable written notice of said condemnation or posting against occupancy.” This provision will allow tenants to seek alternate housing or retain counsel if additional relief is required (e.g. a dispute as to whether condemnation is necessary; additional time to vacate the premises; etc).

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6
Re: Disorderly Houses**

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

1. That Chapter 6, Article IX., Section 6-202 of the
Portland City Code is hereby amended as follows:

ARTICLE IX. DISORDERLY HOUSES.

Sec. 6-202. Enforcement.

(a) Authority to Enforce - If the owner (~~a~~1) refuses to agree to take effective measures to address the disorderly house, (~~b~~2) takes ineffective measures to address the disorderly house as determined by the city, (~~e~~3) fails to implement the agreement reached with the city to address the disorderly house or (~~d~~4) 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.

(b) Notice of Suit - If the City pursues legal action against an owner or landlord for a disorderly house violation, notice shall be provided to the tenants by the City. Notice shall be made within a reasonable time following the service of the complaint upon the property owner. If a tenant list has been previously provided by a landlord, notice shall be made by regular mail to all known tenants in the building. If no tenant list has been provided, notice shall be made by regular mail to all occupants in each unit of the building.

(c) Condemnation - In the event that condemnation is required to address one or more disorderly house violation(s), the City shall provide notice to tenants of the building. Notice shall be made within a reasonable time following the City's election to condemn the building. Notice shall be made by: (1) regular mail to all known tenants or to all occupants in each unit in the building; and (2) by posting a copy of said notice at the premises.