

**CITY OF HARRINGTON
ORDINANCE NO. 15-09**

**AN ORDINANCE ADDING CHAPTER 145, DISORDERLY PREMISES, TO THE
CODE OF THE CITY OF HARRINGTON**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
HARRINGTON IN COUNCIL MET:

Section 1. That the Code of the City of Harrington shall be amended by
adding a new chapter to read as follows:

Chapter 145: DISORDERLY PREMISES

§ 145-1. Definitions.

For purpose of this chapter, the following definitions shall apply:

PERSON

Any owner, owner's agent, manager, caretaker, tenant, occupant, and/or
Person occupying and/or responsible for any residential, commercial, or any
other premises located in the City of Harrington regardless of whether it be a
Person or artificial entity.

UNAUTHORIZED CONDUCT

Any conduct which causes public inconvenience, annoyance, alarm, or
danger to a reasonable person; has the reasonable likelihood of causing
public inconvenience, annoyance, alarm, or danger; or disrupts the quiet use,
enjoyment, and good order of adjoining and surrounding properties.
Unauthorized conduct includes, but is not limited to, engaging in fighting or in
violent, tumultuous, or threatening behavior; making unreasonable noise or
an offensively coarse utterance, gesture, or display or addressing abusive
language to any person present; obstructing vehicular traffic or pedestrian
traffic; creating a hazardous or physically offensive condition which serves no
legitimate purpose; or engaging in any unlawful conduct.

§ 145-2. Violations.

It shall be unlawful for any Person to engage in any Unauthorized Conduct at any
time on any premises located in the City of Harrington. Any Person who fails to
obey the order of a Police Officer to dispel and disperse or otherwise discontinue
the Unauthorized Conduct may be cited for an additional violation of this Chapter.

§ 145-3. Presumptions.

Any Person who occupies or exercises any control over the premises where the violation of § 145-2 hereof has occurred, or where the violation of § 145-2 originated should the violation move immediately to another public venue, shall be presumed to allow, suffer, or permit such conduct after receiving notice that such conduct has occurred and shall be in violation of this Chapter if a further violation of § 145-2 occurs within one hundred eighty (180) days of receiving said notice.

§ 145-4. Notice of Violation.

A. Notice is properly served upon a Person if a copy of such notice is:

- (1) delivered to the Person personally;
- (2) hand delivered to the Person's registered office;
- (3) left at the Person's usual place of abode or business, in the presence of an employee or family member who has reached the age of majority, whichever the case may be, who shall be informed of the contents of such notice;
- (4) sent by certified mail, return receipt requested, addressed to the Person at the Person's last known address; or
- (5) sent by certified mail, return receipt requested, to the mailing address of the owner of the subject premises as recorded in the Assessment Records.

B. After service of notice, the Person shall make a good faith effort to develop a plan of action with the City of Harrington Police Department to prevent further violation of § 145-2. Failure to make such effort to develop the plan shall be considered a violation of § 145-2.

§ 145-5. Fines and Penalties.

Any Person convicted of a violation of this Chapter shall be fined as established in Chapter 180, Municipal Fees.

In the event that Person convicted is a minor, the minor's parents or guardian, shall be financially responsible for the payment of any and all fines assessed under this provision. In any prosecution for any offense under this Chapter, it shall be an affirmative defense, which must be proved by the preponderance of the evidence, that the tenant or occupant has been evicted and is no longer on the premises, or if there is pending at the time of trial an eviction action against

the tenant or occupant of the premises which action is being pursued in good faith. Otherwise the fines imposed under this Subsection shall not be suspended.

§ 145-6. Additional Expenses.

Any Person convicted of a violation of this Chapter shall be responsible for any and all additional expenses incurred by the City of Harrington as a result of the Person's Unauthorized Conduct and shall indemnify the City of Harrington and its personnel from any claims for loss of damage to person or property (real or personal) that may directly or indirectly be occasioned by the Unauthorized Conduct. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment thereof.

Additional expenses shall include, but shall not be limited to, attorneys' fees, court costs, and expenses incurred in conjunction with any such claim, removal of all debris and litter from public property and surrounding properties affected by the Unauthorized Conduct, damage to personal property located on public property and surrounding properties, the cost of retaining outside law enforcement and/or other emergency assistance, the cost for police officers and other emergency personal or real public property, and personal injury damages (including death) to City of Harrington employees and other outside law enforcement and/or emergency personnel.

§ 145-7. Non-Payment of Fines and Additional Expenses; Lien on Real Estate and Cause of Action for Recovery.

In the event a Person convicted of a violation of this Chapter fails or refuses to comply with an order of the City of Harrington Police Department and/or the City of Harrington Code Enforcement Officer, after due notice thereof, either actual or constructive, to remit payment for any fines or additional expenses owed in which the violation occurred and shall be a lien upon such real estate. Such lien shall be added to the tax bill pursuant to § 12.2 of the Charter.

§ 145-8. Enforcement.

This Chapter shall be enforced by the City of Harrington Police Department and/or the City of Harrington Code Enforcement Officer. Jurisdiction for violations of this Chapter shall be in the Justice of the Peace Court.

Repealer. All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Effective Date. The Clerk of Council shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval by Council.

SO ORDAINED by the majority of Council Members present at a regular session of Harrington City Council, to be effective upon signing.

Anthony R. Moyer, Mayor

Attest: _____
Kelly Blanchies, Clerk of Council

Date of Adoption: _____

SYNOPSIS

This Ordinance adds Chapter 145, Disorderly Premises, to regulate disorderly premises.

First Reading: _____

Public Hearing: _____

Second Reading: _____

Approved
First Reading