

**TOWN OF FREDERICA  
ORDINANCE NO. 16-06**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF FREDERICA BY ADDING A NEW CHAPTER ENTITLED DISORDERLY PREMISES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FREDERICA IN COUNCIL MET:

**Section 1.** That the Frederica Code be amended by adding a new Chapter (145) entitled Disorderly Premises to read as follows:

Chapter 145 -- Disorderly Premises:

§1. Definitions.

For purpose of the “Disorderly Premises” ordinance, the following definitions shall apply:

- (a) “Person” shall be defined as “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 Town of Frederica regardless of whether it be a Person or artificial entity.
- (b) “Unauthorized Conduct” shall be defined as “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 including, but 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.

## §2 Violations

It shall be unlawful for any Person to engage in any Unauthorized Conduct at any time on any premises located in the Town of Frederica. 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.

## §3. Presumptions

Any Person who occupies or exercises any control over the premises where the violation of Section 2 hereof has occurred, or where the violation of Section 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 Section 2 occurs within one hundred eighty (180) days of receiving said notice.

## §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 law 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 Council of the Town of Frederica and the Town of Frederica Police Department to prevent further violation of Section 2. Failure to make such effort to develop the plan shall be considered a violation of Section 2.

§5. Fines and Penalties

Any Person convicted of a violation of this Chapter shall be fined no more than one thousand dollars (\$1,000.00) for any offense but no less than one hundred dollars (\$100.00) for the first offense, no less than three hundred dollars (\$300.00) for the second offense, and no less than five hundred dollars (\$500.00) for each subsequent like offense.

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.

§6. Additional Expenses

Any Person convicted of a violation of this ordinance shall be responsible for any and all additional expenses incurred by the Town of Frederica as a result of the Person's Unauthorized Conduct and shall indemnify the Town of Frederica 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 Town of Frederica employees and other outside law enforcement and/or emergency personnel.

§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 ordinance fails or refuses to comply with a order of the Town of Frederica Police Department and/or the Town of Frederica 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. Upon certification of a lien to the Town Solicitor by the Town of Frederica Police Department and/or the Town of Frederica Code Enforcement Officer, the amount of such lien shall be recorded in the Office of the Prothonotary where the property is located. The Town Solicitor in the name of the Town of Frederica, may institute suit before any Justice of the Peace within Kent County, or in the Court of Common Pleas in and for Kent County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid additional expenses in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

§8. Enforcement

The Town of Frederica Police Department and/or the Town of Frederica Code Enforcement Officer shall enforce this Chapter. Jurisdiction for violations of this ordinance shall be in the Justice of the Peace Court.

Repealer: All ordinances and part of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

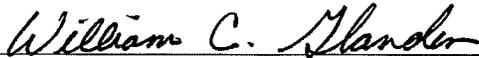
Effective Date: This ordinance shall become effective thirty days after adoption.

**ORDAINED AND ENACTED INTO THE LAW** by a majority vote of the Council Members present at a regular session of Frederica Town Council, Delaware on the 5th day of October, A.D. 2016.

First Reading: September 7, 2016

Public Hearing and Second Reading: October 5, 2016

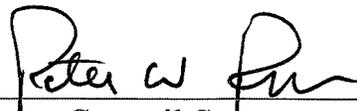
Published: OCTOBER 12, 2016

  
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William C. Glanden

Mayor

I do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by the Town Council at its meeting on October 5, 2016 at which meeting a quorum was present and voting throughout that the same is still in full force and effect.

  
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Council Secretary

## SYNOPSIS

This Ordinance adds Chapter 145 to address the problem of disorderly premises.