



Legislation Details (With Text)

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**Title:** Ordinance supplementing the Pittsburgh Code, Title Ten, Buildings, by adding Chapter 1018, Action for Possession of Rental Unit as a Drug Haven.

**Sponsors:** Gene Ricciardi

**Indexes:** PGH. CODE ORDINANCES TITLE 10 - BUILDING CODE

**Code sections:**

**Attachments:** 1. 2005-1042.doc.doc

Date	Ver.	Action By	Action	Result
11/2/2005	1	Committee on Public Safety Services	TABLED	Pass
10/26/2005	1	Committee on Public Safety Services	Held in Committee	Pass
8/31/2005	1	Committee on Public Safety Services	Held in Committee	Pass
7/13/2005	1	Committee on Public Safety Services	Held in Committee	Pass
6/1/2005	1	Committee on Public Safety Services	Held in Committee	Pass
5/25/2005	1	Committee on Public Safety Services	Held in Committee	Pass
5/11/2005	1	Committee on Public Safety Services	Held in Committee	Pass
4/27/2005	1	Committee on Public Safety Services	Held in Committee	Pass
4/13/2005	1	Committee on Public Safety Services	Held in Committee	Pass
3/30/2005	1	Committee on Public Safety Services	Held in Committee	Pass
3/16/2005	1	Committee on Public Safety Services	Held in Committee	Pass
3/2/2005	1	Committee on Public Safety Services	Held in Committee	Pass
2/23/2005	1	Committee on Public Safety Services	Held in Committee	Pass
2/16/2005	1	Committee on Public Safety Services	Held in Committee	Pass
2/8/2005	1	City Council	Read and referred	

Presented by Mr. Bodack

Ordinance supplementing the Pittsburgh Code, Title Ten, Buildings, by adding Chapter 1018, Action for Possession of Rental Unit as a Drug Haven.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** Supplementing the Pittsburgh Code, Title Ten, Buildings, by adding Chapter 1018, Action for Possession of Rental Unit as a Drug Haven.

This act shall be known as the “Drug Haven Elimination Ordinance of 2005”.

**Section 2.** Legislative Intent

In approving this Ordinance, the City intends to increase the formal involvement of a property owners, residents, resident associations, community based organizations and other citizens of Pittsburgh in the prevention, limitation and eradication of drug-related activity in publicly and privately-owned housing accommodations. The City further recognizes that until and unless drug havens and the tenants or occupants who patronize them are removed from a residential atmosphere, the safety and well-being of the entire community is at risk.

**Section 3.** Definitions

For the purposes of this Ordinance, the following terms shall apply:

- a) “Drug Haven” means a housing accommodation, or land appurtenant to or common areas of housing accommodation, where drugs have been illegally stored, manufactured, used, or distributed during the 180-day period that precedes the time that the action was commenced pursuant to this Ordinance.
- b) “Drug” means a controlled substance as defined in the Pennsylvania Crimes Code, Chapter 18.
- c) “Housing Provider” means:
  - 1) A landlord, owner, lessor, sublessor or assignee;
  - 2) The agent of a landlord, owner, lessor, sublessor or assignee or any person entitled to receive compensation for the use or occupancy of a rental unit within a housing accommodation.
- d) “Housing accommodation” means a building that contains at least three rental units and the land appurtenant to the building.
- e) “Manufacture” shall have the same meaning as the term in the Pennsylvania Crimes Code, Chapter 18.
- f) “Closure” means the closing of a rental unit or housing accommodation.
- g) “Community-based Organization” means any group, whether incorporated or unincorporated, affiliated with or organized for the benefit of one or more communities or neighborhoods containing the drug-nuisance alleged in an action under this Ordinance, or any group organized to benefit the quality of life in a residential area containing the drug nuisance alleged in an action under this ordinance.

- h) “Occupant” means any person authorized by the tenant or housing provider to be on the premises of the rental unit.
- i) “Rental Unit” means an apartment, room, or part of a publicly or privately owned housing accommodation that is rented or offered for rent for residential occupancy, and the land appurtenant to the apartment, room, or part of the housing accommodation.
- j) “Resident Association” means an organization of residents of a multifamily building or a single complex of jointly managed multifamily buildings.
- k) “Tenant” means a person who resided in or occupies property belonging to another personal pursuant to a lease agreement or a tenancy under common law.

#### Section 4. Chapter 1018

Be it resolved that the City of Pittsburgh hereby supplements the Pittsburgh Code, Title Ten, Buildings, by adding Chapter 1018, Action for Possession of Rental Unit as a Drug Haven, as follows:

##### 1018.01 Action for Possession of Rental Unit as a Drug Haven

- a) Notwithstanding any provision of the Pennsylvania Code, a housing provider may commence an action in Pittsburgh Housing Court to recover possession of a rental unit used as a drug haven, or the City may commence an action to evict a tenant or occupancy in a rental unit used as a drug haven. The recovery or eviction shall be ordered if the Pittsburgh Housing Court has determined by a preponderance of the evidence that the rental unit is a drug haven.
- b) In making the determination that the rental unit is a drug haven, the Court shall consider:
  - 1) Whether the tenant or an occupant of the rental unit, whether authorized or unauthorized, is in violation of the State Crimes Code. Chapter 18 due to activities that occurred within 180 days of the commencement of an eviction action pursuant to this Ordinance, or has violated a term or parole or probation for a previous conviction under the State Crimes Code.
  - 2) Whether a tenant has violated a lease term concerning the possession, use, manufacture or sale of a drug or drug paraphernalia.
  - 3) Whether a tenant has violated a lease term concerning the discharge of a firearm or possession of a firearm.
  - 4) Whether a firearm has been discharged within the rental unit at any time during the 180-day commenced period that proceeds the time that an eviction action commenced pursuant to this Ordinance.
  - 5) Whether the rental unit has been the subject of more than one drug-related search or seizure during a 180-day period prior to an action pursuant to this Ordinance.

- 6) The testimony of any witness concerning the possession, manufacture, storage, distribution, sale, use or the attempted possession, manufacture, storage, distribution, sale or use of an illegal drug by a tenant or occupant of the unit for which possession is sought; or,
  - 7) Any other relevant and admissible evidence that demonstrates that the rental unit is, or is not, a drug have.
- c) A notice of the action shall be served upon the tenant or occupant at least five days prior to that hearing.

#### 1018.02 Conviction Not Required

- a) A conviction of the tenant, or anyone else, is not necessary to bring an action under this Ordinance, and is not necessary to prove the existence of a drug haven.
- b) Proof of the ill repute of the subject premises regarding drug-related activity shall be admissible in all actions brought under this Act.
- c) A conviction of any person, within a period of one year, for drug-related activity at the subject premises shall be presumptive evidence of the existence of a drug haven, the unlawful use of said premises, and the knowledge of the property owner of such unlawful use.

#### 1018.03 Hearing

- a) Within twenty business days of the filing of an action under this ordinance against a tenant or occupant, the Court shall hold a hearing on the merits of the eviction action. If it is determined by a preponderance of the evidence, after consideration of the factors set forth in Section 3, that the rental unit is drug haven, the Court shall issue an order that mandates on or more of the following:
  - 1) Eviction of the tenant or occupant;
  - 2) Closure of the rental unit for a period of time to be decided by the Court;
  - 3) Suspension of the residential occupancy permit of the property.
- b) Execution of an order shall occur within five business days of the issuance of the order.
- c) The Court shall not enter an order to evict a tenant or occupant against whom the action was filed under this ordinance if the tenant or occupant shows by a preponderance of the evidence that the events or actions upon which the judgment may be granted could not reasonably have been known to the defendant.

#### 1018.04 Complaint by affected tenant, resident association or community-based organization

- a) An affected tenant, resident, resident association, or community based association may submit a Complaint for Eviction in a form approved by the Court. The housing provider may be named as a party plaintiff in the petition.
- b) Prior to commencing an action under this subsection, the tenant, resident association, or community based organization shall provide written notification to the housing provider of the existence of a drug have, and request that the housing provider take immediate corrective action.
- c) In action brought under this subsection, the petition shall set forth the following:
  - 1) the date and time the affected tenant, resident, resident association or community-based association witnessed, or came to know of, the possession, manufacture, storage, distribution, sale, use, or attempted possession, manufacture, storage, distribution, sale or use of an illegal drug in the rental unit by a tenant or occupant;
  - 2) Any other information relevant to the petition that can be verified by a named witness or independent authority, including the City Police Department.
- d) The Court may grant a remedy of eviction in such a case, as if the case had been brought by the housing provider or the District Attorney.
- e) An action brought under this subsection shall take precedence over any subsequent action or similar proceeding brought by the housing provider.

#### Section 5. Severability

If any section , sentence, clause or phrase of this Ordinance is held invalid, or unconstitutional and any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion so this Ordinance.

#### Section 6. Applicability

This ordinance shall take effect in thirty days.