



Text File

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Committee: Committee on Public Safety
Services

Status: Passed Finally

Ordinance amending the Pittsburgh City Code, Title Six, Conduct, Article VII - Disruptive Properties, Chapter 670. - Disruptive Property Abatement, by repealing Chapter 670 in its entirety and replacing it with a new Chapter 670.

The Council of the City of Pittsburgh hereby enact as follows:

Section 1.

TITLE SIX: - CONDUCT

ARTICLE VII: - DISRUPTIVE PROPERTIES

CHAPTER 670. - DISRUPTIVE PROPERTY ABATEMENT [\[5\]](#)

§ 670.01 - PURPOSE.

City Council hereby finds that Disruptive Properties as set forth herein place a substantially unacceptable threat to and burden upon the common health, safety and welfare of the residents of the City of Pittsburgh. To this end, City Council hereby authorizes and directs the Director of Public Safety, or his/her designee ("Director") as provided in the following sections, to charge the cost of law enforcement/public safety services incurred by responding to Disruptive Properties against the corresponding Property Owner in order to deter repeated violations of federal, state and/or local law ~~or~~ a Serious Offenses as set forth herein, and to pursue misdemeanor charges against the Owner and/or Tenant/Occupant of a Disruptive Property when Disruptive Activity (as defined herein) remains unabated per Section 670.06 of this Chapter. Nothing in this Chapter is intended to deter individuals within the City from requesting public safety services when they are in legitimate need of such.

(Ord. No. 33-2007, § 2, eff. 1-15-07) § 670.02 - DEFINITIONS.

- (a) Director - Director of Public Safety, or his/her designee
- (b) Property - commercial or residential real estate, including rental Property. "Rental Property" as set forth herein may be either an individual rental unit of a Property or the entire Property that contains multiple rental units. For purposes of enforcement hereunder, three (3) or more separate citations, summons and/or arrests for Disruptive Activity, or a single Serious Offense as defined herein, involving the same rental unit must occur in order to declare that individual rental unit a Disruptive Property. Any occurrence of Disruptive Activity in the common area or curtilage of a rental property may be charged

to the specific rental unit that the actor occupies if circumstances support such a determination.

- (c) Owner - One or more persons, jointly or severally, in whom is vested all or part of the legal or equitable title to the commercial or residential property, including a mortgage holder, corporation, partnership or other entity.
- (d) Tenant/Occupant - A person or entity who resides on the Property, whether or not as the Owner, with or without a written lease.
- (e) Invitee - A person or entity on the Property with the actual or implied consent of the Tenant/Occupant or Owner.
- (f) Disruptive Activity - any form of conduct, action, omission, instance, incident or behavior perpetrated, caused or permitted on a Property by the Owner, Tenant/Occupant(s) or their Invitee(s) of the Property, which constitutes a violation of any federal, state and/or local law including, but not limited to the following:
 - (1) any public order offense under City Code Sections 601.03 (Soliciting Business), 601.04 (Noise Control), 601.06 (Intersexual Massage), 601.07 (Unlicensed Alcohol or Liquor Sale), or 601.08 (Alcohol or Liquor Consumption on Streets or Sidewalks), 601.19 (Social Host and Underage Drinking) of the Pittsburgh Code; or 18 Pa.C.S.A. § 5501 (Riot), 18 Pa.C.S.A. § 5502 (Failure to Disperse), 18 Pa.C.S.A § 5503 (Disorderly Conduct), 18 Pa.C.S.A. § 5505 (Public Drunkenness), 18 Pa.C.S.A. § 5506 (Loitering), 18 Pa.C.S.A. § 5512 (Lotteries), 18 Pa.C.S.A. §5513 (Gambling Devices, Gambling), or Pa.C.S.A. § 5514 (Pool Selling and Bookmaking);
 - (2) any violation involving a minor under Chapter 604 (Curfew) of the Pittsburgh Code; or 18 Pa.C.S.A. §4304 (Endangering the Welfare of Children), 18 Pa.C.S.A §6110.1 (Possession of Firearm by Minor), 18 Pa.C.S.A §6301 (Corruption of Minors), 18 Pa.C.S.A. §6308 (Purchase, Consumption or Possession of Alcoholic Beverages), 18 Pa.C.S.A. §6310 (Inducement to Buy Alcoholic Beverages), 18 Pa.C.S.A. §6310.1 (Selling or Furnishing Alcoholic Beverages to Minors), 18 Pa.C.S.A §6310.7 (Selling or Furnishing Nonalcoholic Beverages to Minors) or 18 Pa.C.S.A. §6319 (Solicitation of Minors to Traffic Drugs) of the Pennsylvania Crimes Code;
 - (3) any firearms or other weapons offense under City Code Sections 607.03 (Discharging Firearm or Airgun) or 607.05 (Archery and Slingshots) of the Pittsburgh Code, or the Pennsylvania Uniform Firearms Act, 18 Pa.C.S.A. §§ 6101 *et seq.*;
 - (4) any violation related to the maintenance of a property free from noxious weeds, excessively high grass and refuse under Chapter 609 and/or under Chapter 1004 of the Pittsburgh Code;
 - (5) any public decency offenses under City Code Sections 613.02 (Obscene Materials), 613.03 (Dissemination of Explicit Sexual Materials to Minors), 613.04 (Admitting Minors to Shows), or Chapter 615 of the Pittsburgh Code; or 18 Pa.C.S.A § 5901 (Open Lewdness), 18 Pa.C.S.A § 5902 (Prostitution), 18 Pa.C.S.A. § 5903 (Obscene and Other Sexual Materials and Performances), or 18

Committee: Committee on Public Safety
Services

Status: Passed Finally

Pa.C.S.A § 5904 (Public Exhibition of insane or Deformed Person);

(6) any offense against property under Chapter 616 of the Pittsburgh Code;

(7) any sanitation violation under City Code Section 619.04 (Accumulation of Municipal Waste) of the Pittsburgh Code; or 18 Pa.C.S.A. § 6501 (Scattering Rubbish);

(8) any animal offense under City Code Sections 633.08 (Dogs at Large), 633.09 (Harboring a Nuisance), 633.10 (Shelters), 633.11 (Nondomestic Canine/Feline and Hybrids), 633.12 (Number of Pets Permitted in City Limits), 633.20 (Dangerous Dogs), 633.23 (Tethering of Dogs), and 635.02 (Fowl at Large) of the Pittsburgh Code; or 18 Pa.C.S.A §§ 5531 *et seq.* (Cruelty to Animals); and

(9) any violation of federal drug laws or the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act. 35 P.S. §§ 780-101 *et seq.*

(10) any violation of Title VIII Fire Safety Code

(g) Serious Offense - Any Felony violation and/or arrest of State and/or Federal Laws including but not limited to:

(1) Possession with intent to deliver of a controlled substance

(2) Delivery of a controlled substance

(3) Manufacturing of a controlled substance, such as marijuana grow or methamphetamine lab

(4) Business promoting Prostitution or intersexual massages

(5) Child Pornography

(6) Human Trafficking

(7) Aggravated Assault, not associated with Domestic Violence

(h) Disruptive Property - Any Property on which Disruptive Activity has occurred on three (3) or more separate occasions within any 12-month period or any Property on which a Serious Offense has occurred.

(i) Abatement Plan- a Plan of Action that the Property Owner will take to remove the violation causing the Disruptive Activity and prevent further Disruptive Activities as set forth in City Code Section 670.04 (a).

(j) Public Nuisance - Property **Declared as a Disruptive Property** where Disruptive Activity continues to occur on one (1) or more separate occasions within ~~any 6-months period~~ **after the declaration** or a single

Committee: Committee on Public Safety Services

Status: Passed Finally

Serious Offense occurs within 6-months after the declaration. following the Declaration of Disruptive Property.

(Ord. No. 33-2007, § 2, eff. 1-15-07; Ord. No. 10-2010, § 1, eff. 4-30-10; Ord. No. 29-2013, § 2, eff. 11-21-13; Ord. No. 38-2014, § 1, eff. 12-31-14; Ord. No. 44-2017, § 1, 12-1-17) § 670.03 - NOTICE.

The Director will provide a Notice to the Owner of any Property in any of the following scenarios: 1) issuance of a citation, summons and /or an arrest was made for a Disruptive Activity; 2) a Declaration of a Property as a Disruptive Property due to a third citation, summons and /or arrest; 3) a Declaration of a Property as a Disruptive Property due to a **single** Serious Offense; or 4) an acceptance or denial of an Abatement Plan.

(a) The Director shall provide a separate written Notice to the Owner of any Property for each citation, summons and/or arrest which has been made for a Disruptive Activity on said property, Notice of a **single** Serious Offense on said Property, or Notice Declaring said Property as a Disruptive Property. Each Notice shall, as applicable, contain the following information:

- (1) The street address or legal description sufficient for identification of the Property;
- (2) the date of occurrence and the description of the Disruptive Activity, **single** Serious Offense, and/or Declaration of a Disruptive Property;
- (3) either a statement that the Property is Declared as a Disruptive Property, or, if the Property has not yet been Declared a Disruptive Property, a statement of the number of subsequent citations, summons and/or arrests for Disruptive Activity which will result in such a Declaration;
- (4) If the Property has been Declared a Disruptive Property, a statement that the occurrence of any subsequent Disruptive Activity at this Property within six (6) months following the date of the Declaration **or Serious Offense within six (6) months following the date of declaration**, may result in the Property Owner being charged with the costs of the administrative and public safety actions taken by the City in response to the Disruptive Activity **or Serious Offense**;
- (5) a statement of the Property Owner's rights to Appeal the findings in the Notice regarding any of the citations, summons or arrests, **single** Serious Offense, or Declaration, pursuant to Section 670.05 of this Chapter and to obtain, to the extent permitted by law including but not limited to The Criminal History Record Information Act ("CHRIA"), 18 Pa. C.S. §§9101 *et seq.*, upon written request for such, copies of all documentation supporting the Director's Notice; and

(6) a statement that the Property Owner may respond to the Director by either:

- i. completing an Appeal Form within fifteen (15) business days of the date of the Notice due to Disruptive Activities or a **single** Serious Offense, if the Property Owner intends to file an Appeal of the findings in the Notice; OR
- ii. submitting an Abatement Plan within fifteen (15) business days of the date of the Notice.

- (b) The Director shall provide a separate written Notice of his/her decision to accept or deny the Abatement Plan submitted by the Owner of any Property that was Declared Disruptive. The Notice shall contain the following information:
- (1) The Director's decision to accept or deny the Abatement Plan and a brief statement of the reasons supporting such decision.
 - (2) a statement that if the Abatement Plan was denied, that the Property Owner may work with the Director to improve upon the Abatement Plan.
 - (3) a statement that the Property Owner must complete an Appeal Form and send to the Director within fifteen (15) business days of the date of the Notice due to a denied Abatement Plan if the Property Owner intends to file an Appeal of a denial.
- (c) The Notice identified in subsections (a) or (b) shall be deemed to be properly delivered if sent either by first-class mail to the Property Owner's registered address or, if unavailable, to the Property Owner's last known address or as may be found in public records, or if delivered in person to the Property Owner or left at the Property Owner's usual place of abode in the presence of a competent member of the family at least eighteen (18) years of age or a competent adult residing there. If a current address cannot be located, Notice shall be deemed sufficient if posted on the potential Disruptive Property, and a copy of the Notice is sent via first-class mail to the last known address of the Property Owner. Either the City's Department of Public Safety or Department of Permits, Licenses and Inspections, ("PLI") shall be authorized to post such Notices upon Properties when a Notice is undeliverable.

(Ord. No. 33-2007, § 2, eff. 1-15-07; Ord. No. 23-2014, § 1, 12-2-14) § 670.04 - DECLARATION AND ABATEMENT OF DISRUPTIVE PROPERTIES.

When the Director determines that the Owner(s), Tenant/Occupant(s) or Invitee of a Property has either been arrested or issued a citation or summons for Disruptive Activities occurring on the Property on three (3) or more separate occasions within any twelve-month period, or when a **single** Serious Offense has occurred at said Property, the Director may Declare the Property to be a Disruptive Property and proceed with the Notice and enforcement procedures set forth in this Chapter. Any citation, summons or arrest for Disruptive Activity **or Serious Offense** perpetrated by a Tenant/Occupant who is already in the process of being evicted, shall not count towards the Declaration of a Disruptive Property pursuant to City Code Section 670.05(b), provided that the Property Owner can prove that an eviction action has been commenced in a court of law and that the Property Owner is actively prosecuting said eviction action against the Tenant/Occupant.

- (a) Within fifteen (15) business days of the date of the Notice Declaring a Property as a

Disruptive Property due to three (3) or more Disruptive Activities within a twelve-month period or a **single** Serious Offense, occurring on the Property, the Property Owner may submit to the Director in writing:

- (1) A completed Appeal Form to demonstrate the intent of the Property Owner to Appeal the findings of the Director,
 - (2) an Abatement Plan detailing the course of action and corresponding time period by which Disruptive Activities **or Serious Offenses** will be abated at the Property and preventative measures to be taken to avoid further Disruptive Activities **or Serious Offenses** from occurring at the Property.
 - (i) The time period for implementation of any proposed Abatement Plan shall not exceed sixty (60) days from the date of submission.
 - (ii) The Director shall within fifteen (15) business days of receipt of the Abatement Plan, either approve or deny the Abatement Plan and provide the Property Owner with written Notice of his/her decision in accordance with City Code Section 670.03. The denial of an Abatement Plan by the Director may be appealed by the Property Owner pursuant to City Code Section 670.05.
- (b) **When applicable, a** copy of the approved Abatement Plan will be submitted to the Commander of the corresponding Bureau of Police Zone who will collaborate with the Property Owner who is responsible for enforcing the plan approved by the Director of Public Safety. The appropriate Police Zone will monitor the enforcement of the Plan.
- (c) If the Director determines that an Abatement Plan was not submitted or an approved Abatement Plan is not being enforced by the Property Owner or any subsequent Disruptive Activity **or Serious Offense** occurred within six (6) months after a Property was Declared a Disruptive Property, and the Property Owner failed to file either an Appeal of the Declaration pursuant to City Code Section 670.05 or an approved Abatement Plan pursuant to this Chapter subsection (a) above, the Property Owner may be assessed all costs incurred by the City in providing public safety services to the Property in response to the subsequent Disruptive Activity **or Serious Offense** per City Code Section 670.06.
- (d) After a Property has been Declared a Disruptive Property, if public safety authorities are not called upon to respond to any Disruptive Activities **or Serious Offense** for a period of twelve (12) consecutive months, then the Property will no longer be Declared as a Disruptive Property.

§ 670.05 - APPEAL.

- (a) Any Property Owner who receives a Notice pursuant to Chapter 670.03 may Appeal the Notice to the Disruptive Property Appeals Board pursuant to Chapter 670A of the Pittsburgh Code. The Board shall conduct a hearing and render a decision in accordance with City ordinances and regulations governing its

conduct and procedure. The Property Owner may prevail on an Appeal of any Notice if the owner demonstrates that:

- (1) He/she was not the Owner at the time of any of the Disruptive Activity or **single** Serious Offense that was the basis of the Notice;
 - (2) He/she had knowledge of the Disruptive Activity or **single** Serious Offense, but promptly and vigorously took all actions necessary to prevent the occurrence of future Disruptive Activities or Serious Offenses; or
 - (3) He/she had no knowledge of the Disruptive Activity or **single** Serious Offense and could not, with reasonable care and diligence, have known of the Disruptive Activity or **single** Serious Offense; and upon receipt of the Notice of the Declaration of the Property as a Disruptive Property, he/she promptly took all actions necessary to prevent the occurrence of future Disruptive Activities or Serious Offenses
- (b) Upon Appeal of a Notice Declaring his/her Property a Disruptive Property, if a Property Owner is able to demonstrate to the Board that an eviction action has been commenced in a court of law and that the Property Owner is actively prosecuting said eviction action against the offending Tenant/Occupant, then the Board shall order a stay of any/all further enforcement of this Chapter by the City pending a determination by the District Magistrate Judge or Allegheny County Court of Common Pleas Judge on the eviction action. If the Property Owner is successful in the eviction action, then the Property will no longer be classified as a Disruptive Property.
- (c) Upon Appeal of a Notice Declaring his/her Property a Disruptive Property, if a Property Owner is able to demonstrate to the Board that one or more of the citations, summons or arrests for Disruptive Activity or **the single** Serious Offense, which was the basis of the Declaration of Disruptive Property, is subject to a "not guilty" plea by the offending party, then the Board shall order a stay of any/all further enforcement of this chapter by the City pending a determination by the District Magistrate Judge or Allegheny County Court of Common Pleas Judge on the citation, summons, or arrest. If the offending party is found to be "not guilty" on one or more of the citations summons, or arrest, then those instances of Disruptive Activity or **single** Serious Offense will not be counted towards the Declaration of Disruptive Property.

(Ord. No. 33-2007, § 2, eff. 1-15-07) § 670.06 - FAILURE TO ABATE DISRUPTIVE ACTIVITY.

The costs of providing public safety services will be charged to the Owner of any Property that has been Declared a Disruptive Property pursuant to the provisions of this chapter when an approved Abatement Plan is not being enforced by the Property Owner or when the City's Department of Public Safety is called upon to respond to Disruptive Activity or **a** Serious Offense occurring at the Property on one (1) or more separate occasions within a six (6) month time period following the Declaration of Disruptive Property, and no Appeals pursuant to City Code Section 670.05 remain pending.

- (a) When the Director determines that an approved Abatement Plan is not being enforced by the Property Owner, the costs of providing public safety services for the third call which triggered the Property being Declared Disruptive or the public safety services for the **single** Serious Offense, will be charged to the

Committee: Committee on Public Safety Services

Status: Passed Finally

Property Owner. The Property Owner will still need to follow through with the approved Abatement Plan.

(b) If the Director determines that one (1) or more subsequent instances of Disruptive Activity or Serious Offense occurred within six (6) months after a Property was Declared a Disruptive Property, and the Property Owner failed to file either an Appeal of the Declaration pursuant to City Code Section 670.05 or failed to submit an Abatement Plan pursuant to City Code Section 670.04, the Property Owner will be charged all costs incurred by the City in providing public safety services to the Property in response to the subsequent instance(s) of Disruptive Activity or Serious Offense and the Property will be declared a Public Nuisance.

(c) Within thirty (30) days of the City incurring any costs set forth in subsections (a) or (b), the Director shall assess the costs of providing public safety services. Costs of providing public safety services shall be determined based on the time required to respond to the Disruptive Activity multiplied by an hourly rate based upon the wages and benefits of the public safety employee, dispatch costs, vehicle and equipment costs, and supervisory and administrative costs. The hourly rate may be adjusted based on the number of public safety employees required to respond to the Disruptive Activity or Serious Offense.

(d) Once a final determination has been made by the Board on any Appeal filed by the Property Owner pursuant to City Code Section 670.05 or the Property Owner has failed to successfully implement an Abatement Plan approved by the Director pursuant to subsections (a) and (b) above, the Director will present the Property Owner with a written demand for payment containing a description/summary of all costs incurred by the City. The written demand shall be delivered to the Property Owner in accordance with City Code Section 670.03(b). Failure to pay any such costs of providing public safety services to the Property shall be cause for the City to file either, or both, an in rem judgment against the Property or an in personam (personal) action against the Property Owner(s) for recovery of the costs incurred by the City.

(e) Any such Property as described in subsection (d) above is Declared a Public Nuisance, which may result in the filing of misdemeanor charges against the Owner(s) and/or Tenant/Occupant(s) of the Disruptive Property, as may be applicable by the provisions of the Pennsylvania Crimes Code, 18 Pa. C.S.A. §§ 101 *et seq.*

(f) Following a declaration of a Public Nuisance, the city may revoke or deny permits and other City approvals pursuant to other applicable law, including, but not limited to, the Neighborhood Blight Reclamation and Revitalization Act, 53 Pa. C.S. §§ 6101 *et seq.*, until such time as the nuisance has been fully abated.

(Ord. No. 33-2007, § 2, eff. 1-15-07)

§ 670.07 - OTHER LEGAL ACTIONS NOT AFFECTED.

The Declaration of a Disruptive Property or the charging or assessment of costs by the City on a Property under this Chapter, do not affect or limit the City's right or authority to bring criminal prosecution or other legal

action against any person for violation of the Pittsburgh Code.

(Ord. No. 33-2007, § 2, eff. 1-15-07)

CHAPTER 670A. - DISRUPTIVE PROPERTY APPEALS BOARD

§ 670A.01 - ESTABLISHED; MEMBERSHIP.

- (a) There is hereby established a Disruptive Property Appeals Board, which shall consist of five members. Three (3) members shall be appointed by the Mayor and confirmed by Council. The remaining two (2) members shall be appointed by the Mayor from a list of nine (9) candidates submitted by Council, and shall be confirmed by Council. The board shall hold office at the pleasure of the Mayor.
- (b) All members of the Board shall be residents of the City of Pittsburgh.
- (c) A minimum of one (1) member of the Board shall be a current rental property owner and/or manager within the City of Pittsburgh.
- (d) No Board Member shall vote or take action on any Property he/she owns or manages that is currently in front of the Board of Appeals. If the Property is Declared Disruptive, the Property Owner must immediately cease serving as a Board Member.
- (e) Initial terms shall be drawn by lot for one-, two-, three-, four- and five-year terms and subsequent terms shall be for five (5) years so that no more than one (1) term will expire in a given year. Each member shall be a resident of the City.
- (f) The board shall select one (1) of its members to serve as chairperson.
- (g) Members of the City's governing body, and current uniformed employees of the City's Department of Public Safety, may not serve as members of the board.
- (h) The Director of the Department of Public Safety, or his/her designee, shall serve as an ex officio advisory member of the board but shall have no vote on any matter before the board.

(Ord. No. 33-2007, § 3, eff. 1-15-07) **§ 670A.02 - POWERS; DUTIES.**

The Disruptive Properties Appeals Board shall have the following powers and duties:

- (a) The board is authorized to establish policies and procedures necessary to carry out its duties and to interpret the provisions of this Chapter and Chapter 670 of this Code.
- (b) To hear appeals of orders and actions of the Department of Public Safety pursuant to Chapter 670 of this Code and to affirm, amend or reverse such orders or actions.
- (c) To recommend legislation affecting the substance and enforcement of this Chapter and Chapter 670 of this Code.
- (d) The board shall conduct a hearing on all appeals within sixty (60) days of the filing date of each appeal, unless for good and sufficient cause the board extends the time for a reasonable period not to exceed an additional sixty (60) days.

(e) For good cause shown, to grant extensions of time in which to comply with the provisions of Chapter 670.

(Ord. No. 33-2007, § 3, eff. 1-15-07) § 670A.03 - HEARINGS.

- (a) The board of appeals shall conduct all appeal hearings and render all decisions in accordance with the requirements of the Pennsylvania Local Agency Law, 2 Pa. C.S.A §§ 101 *et seq.*.
- (b) All hearings before the board shall be open to the public. The board of appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa. C.S. §§ 701-716 (relating to Sunshine Act).
- (c) Three (3) members shall constitute a quorum for a hearing.
- (d) The board shall affirm, modify or reverse the decision of the Director of Public Safety by a concurring vote of the majority of its members.
- (e) A member shall neither participate in the hearing of, nor vote on, an appeal in which that member has a personal, professional or financial interest.
- (f) The Director of Public Safety shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the Director of Public Safety.
- (g) subsequent offenses after the property has been declared disruptive and while waiting for an appeal hearing, may be allowed to be admitted into the appeal hearing as evidence.
- (h) subsequent complaints received via City of Pittsburgh 311 Response Center (“311”) calls or other medium and 911 calls for service prior to property being declared disruptive and subsequent and 311 complaints and 911 calls for service, with or without a citation, summons or arrest, may be allowed to be admitted as evidence in all appeal hearings in order to establish proof of a pattern of Disruptive Activity in accordance with the Pennsylvania Local Agency Law, 2 Pa. C.S.A. §554 (“Evidence and cross-examination”).

Ord. No. 33-2007, § 3, eff. 1-15-07)