

**BOROUGH OF MT. OLIVER  
ORDINANCE 974**

**AN ORDINANCE OF THE BOROUGH OF MT. OLIVER, ALLEGHENY COUNTY,  
PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF MT. OLIVER,  
CHAPTER 87, ARTICLE VII – DISRUPTIVE PROPERTIES, TO MODIFY THE NOTICE  
REQUIREMENTS FOR OWNERS AND OCCUPANTS OF DISRUPTIVE PROPERTIES AND  
TO CREATE AN EXCEPTION WHERE A TENANT OR OCCUPANT IS A VICTIM OF ABUSE  
OR CRIME, AND ARTICLE VIII – DISRUPTIVE PROPERTY APPEALS BOARD, TO  
MODIFY THE REQUIREMENTS FOR MEMBERSHIP TO THE BOARD**

**WHEREAS**, the Borough of Mt. Oliver has a duty to protect the common health, safety, and welfare of its Citizens; and

**WHEREAS**, certain properties within the Borough of Mt. Oliver repeatedly violate various state and local laws, and in doing so, those properties cause public disorder, disrupt neighboring properties, and impose a tremendous and inequitable burden on Borough resources; and

**WHEREAS**, the Borough previously enacted Ordinance No. 948, establishing a procedure for declaring disruptive those things that threaten the health, safety, and welfare of the citizens of the Borough of Mt. Oliver, authorizing charging the cost of abatement to the owners of disruptive properties, and creating a Disruptive Property Appeals Board; and

**WHEREAS**, the Borough desires to modify the notice requirements for owners and occupants of disruptive properties, as well as the requirements for membership to the Disruptive Property Appeals Board; and

**WHEREAS**, the Borough does not intend for disruptive activity to include an incident where a tenant or occupant is a victim of abuse or crime at the property.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Council of the Borough of Mt. Oliver as follows:

**SECTION 1:** The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-19, Disruptive Properties Described, Paragraph (b) is hereby amended to read, as follows:

(b) When the Chief of Police determines that the owner(s), tenant(s), or occupant(s) of a property, or any person present at a property with the permission and knowledge of the owner(s), tenant(s), or occupant(s), has either been arrested or issued a citation or summons for disruptive activities occurring on the property on three separate occasions within any ninety-day period, the Chief of Police may declare the property to be a disruptive property and proceed with the notice and enforcement procedures set forth in this chapter.

**SECTION 2:** The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-19, Disruptive Properties Described, Paragraph (c) is hereby amended to read, as follows:

(c) For rental properties containing four or more rental units, each individual rental unit shall be considered a “property” for the purposes of enforcement of this chapter. Thus, requiring that three separate citations, summons, and/or arrests for disruptive activity must be made involving the same rental unit in order to declare the individual rental unit a disruptive property. Any occurrence of the disruptive activity in the common area or curtilage of a rental property shall be charged to the specific rental unit that the actor occupies and not the property in whole.

**SECTION 3: The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-19, Disruptive Properties Described, is hereby amended to add new Paragraph (e), as follows:**

(e) Where a tenant or occupant of a property is the victim of abuse or of a crime committed at the property, resulting in an arrest of or the issuance of a citation or summons to an owner, other tenant or occupant, or any person present at the property for a violation of any of the ordinances or statutes identified in Paragraph (a) above, such incident shall not be considered “disruptive activity” for purposes of this Article.

**SECTION 4: The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-20, Notice, is hereby amended to read, as follows:**

(a) The Chief of Police shall provide notice to the property owner(s), tenant(s) and/or occupant(s) once a property has been declared disruptive. A separate notice shall be provided to the property owner(s), tenant(s) and/or occupant(s) for each subsequent citation, summons, or arrest made for a disruptive activity occurring on the property, so long as it continues to be declared disruptive.

(b) With respect to a property owner, the notice identified in subsection (a) 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. 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. With respect to a tenant or occupant, the notice identified in subsection (a) shall be deemed to be properly delivered if sent by first-class mail to the potential disruptive property.

(c) The notice required by subsection (a) shall contain the following information:

1. The street address or legal description sufficient for identification of the property;
2. A statement that the property is declared as a disruptive property, and a description of the disruptive activity and the date on which the citations, summons, or arrests were made resulting in that declaration; and
3. A statement that the occurrence of any subsequent disruptive activity at this property within twelve months following the date of the notice, may result in the property owner being charged with the costs of the administration and law enforcement actions taken by the Borough in response to the disruptive activity; and
5. Notice of the property owner’s, tenant’s and/or occupant’s rights to appeal pursuant to Section 5 of this chapter and to obtain, upon written request for such, copies of all documentation supporting the Chief of Police’s determination that disruptive activity has occurred at the property; and
6. A statement that the property owner shall within 10 business days of the date of the notice respond to the Chief of Police in writing stating either:
  - i. The intent of the property owner to appeal the finding of the Chief of Police, or his/her designee; or

- ii. A proposal detailing a course of action by which disruptive activities will be abated at the property.

**SECTION 5:** The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-21, Abatement of Disruptive Properties, Paragraphs (b) and (d) are hereby amended to read, as follows:

(b) If the Chief of Police determines that any subsequent disruptive activity occurred within a 12 month period after a property was declared a disruptive property, and the property owner, tenant or occupant failed to file an appeal of the declaration pursuant to Section 5 or the property owner failed to file an approved plan to abate the disruptive property, the property owner may be assessed all costs incurred by the Borough in providing public safety services to the property in response to the subsequent disruptive activity. Within 30 days of the Borough incurring any costs set forth in this subsection, the Borough of Mt. Oliver shall invoice the property owner for such costs. The invoice shall contain a description/summary of all costs incurred by the Borough and a notice that the property owner has the right to appeal the demand pursuant to Section 5. The invoice shall be delivered to the property owner in accordance with Section 3(b). Failure to pay any such costs of providing public safety services to the property shall be cause of the Borough to file either, or both, an in rem judgement against the property or an in personam (personal) action against the property owner(s) for recovery of the costs incurred by the Borough.

...

(d) The Borough shall not assess any costs of providing public safety services to a property unless/until final determination has been made by the Board on any appeal filed by the property owner, tenant or occupant pursuant to Section 5, or the property owner has failed to successfully implement a plan approved by the Chief of Police pursuant to subsection (a) above.

**Section 6:** The Code of the Borough of Mt. Oliver, Chapter 87, Article VII – Disruptive Properties, Section 87-22, Appeal, is hereby amended to read, as follows:

(a) Any property owner who receives a notice of the issuance of a citation, summons, or arrest for a disruptive activity at his/her property, a notice declaring his/her property a disruptive property, or an invoice for costs of providing public safety services to a disruptive property, may within 10 business days of the service date of the notice, appeal the notice to the Disruptive Property Appeals Board pursuant to Article VIII. The Board shall conduct a hearing and render a decision in accordance with Borough ordinances and regulations governing its conduct and procedure. The property owner may prevail on 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 that was the basis for the notice;
2. He/she had knowledge of the disruptive activity, but promptly took all actions necessary to prevent the occurrence of future disruptive activity; or
3. He/she had no knowledge of the disruptive activity and could not, with reasonable care and diligence, have known that the activity, 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 activity.

(b) Any tenant or occupant who receives a notice of the issuance of a citation, summons, or arrest for a disruptive activity at his/her residence or a notice declaring his/her residence a disruptive property, may within 10 business days of the service date of the notice, appeal the notice to the Disruptive Property

Appeals Board pursuant to Article VIII. The Board shall conduct a hearing and render a decision in accordance with Borough ordinances and regulations governing its conduct and procedure. The tenant or occupant may prevail on appeal of any notice if the tenant or occupant demonstrates that the disruptive activity that was the basis for the notice does not constitute "disruptive activity" within the meaning of this Article.

(c) Upon appeal of a notice declaring property a disruptive property, or invoice for costs of providing public safety services to a disruptive property, if a property owner, tenant or occupant is able to demonstrate to the Board that one or more of the citations, summons, or arrests for disruptive activity, 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 Borough pending a determination by the District Magistrate or Allegheny County Court of Common Pleas on the citation or summons. If the offending party is found to be "not guilty" on one or more of the citations or summons, then the property will no longer be classified as a disruptive property.

**SECTION 7:** The Code of the Borough of Mt. Oliver, Chapter 87, Article VIII – Disruptive Property Appeals Board, Section 87-24, Establishment; Membership, is hereby amended to read, as follows:

- (a) There is hereby established a Disruptive Property Appeals Board, which shall consist of three members appointed by Borough Council.
- (b) All members of the Board shall be residents of the Borough of Mt. Oliver, and shall not hold any other elected or appointed office in the Borough of Mt. Oliver.
- (c) Initial terms shall staggered for one-, two-, and three-year terms and subsequent terms shall be for three years so that no more than one term will expire in a given year.
- (d) The Board shall select one person to serve as Chairperson.
- (e) The Chief of Police, or his designee, shall serve as an ex officio advisory member of the Board, but shall have no vote on any matter before the Board.

**SECTION 8:** Any Ordinance or Resolution or part thereof conflicting with the provisions of this Ordinance, is hereby repealed so far as the same affects this Ordinance.

**SECTION 9:** This Ordinance shall take effect immediately upon its enactment.

ORDAINED AND ENACTED INTO LAW THIS 15<sup>th</sup> DAY OF October, 2018.

ATTEST:

  
Borough Manager

BOROUGH OF MT. OLIVER,

  
President of Council

Examined and approved by me, the Mayor of the Borough of Mt. Oliver, this 15<sup>th</sup> day of

October, 2018.

  
Mayor