

ORDINANCE NO. 17,795

AN ORDINANCE AMENDING CHAPTER 20 (CHRONIC NUISANCE PROPERTY),
CHAPTER 17 (FAIR HOUSING COMMISSION) AND CHAPTER 5 (BUILDINGS AND
BUILDING REGULATIONS OF THE CODE OF THE CITY OF PEORIA, ILLINOIS

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, on or about November 24, 1998, the City of Peoria adopted Ordinance No. 14614 (“Nuisance Ordinance”) prohibiting any property from becoming a chronic nuisance property or an aggravated chronic nuisance property and setting forth penalties therefore; and

WHEREAS, the Nuisance Ordinance has been amended from time to time; and

WHEREAS, on or about May 28, 2019 the City of Peoria adopted Ordinance No. 17690 establishing the Fair Housing Commission as a stand-alone commission with certain duties and powers; and

WHEREAS, the City adopted Ordinance No. 16-118 in 1957 prohibiting landlords from evicting tenants solely in retaliation for tenants make complaints to the City for property maintenance violations by the landlord; and

WHEREAS, Hope Fair Housing Center filed a complaint against the City in the United States District Court, Central District of Illinois (Civ. Action No. 17-01360-SLD-JEH) alleging the City’s enforcement of the Nuisance Ordinance violated the Fair Housing Act (42 U.S.C. § 3601 et. seq.) and the Illinois Civil Rights Act of 2003 (740 ILCS 23/5 et. seq.); and

WHEREAS, the City denies any violations or wrongdoing; and

WHEREAS, settlement eliminated the need for any additional litigation expenses, expert fees or trial costs; and

WHEREAS, part of the agreed upon settlement, approved by the City Council on August 25, 2020 includes revisions to the City’s ordinances, as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: That the above recitals are incorporated herein.

Section 2: That Chapter 20 (Chronic Nuisance Property) of the Code of the City of Peoria is hereby revised in its entirety by adding the following underlined language and deleting any stricken language:

ARTICLE VIII. - NUISANCES

Sec. 20-200. - Violation of chapter.

- (a) Any certain property within the City of Peoria which becomes a chronic nuisance property or an aggravated chronic nuisance property is in violation of this chapter and is subject to its remedies.
- (b) Any owner or person in charge who permits property under his or her ownership or control to be a chronic nuisance property or an aggravated chronic nuisance property shall be in violation of this chapter and subject to its remedies.

(Ord. No. 14616, § 1, 11-24-98)

Sec. 20-201. - Definitions.

- (a) *Chronic nuisance property.* Chronic nuisance property shall be property upon which three or more of the criminal offenses listed below have occurred during any 180-day period, as a result of any three separate and distinct events.
 - (1) First degree murder as defined in 720 ILCS 5/9-1;
 - (2) Any kidnapping offense as defined in 720 ILCS 5/10-1 et seq.;
 - (3) Criminal Housing Management as defined in 720 ILCS 5/12-5.1;
 - (4) Possession of explosives or incendiary devices as defined in 720 ILCS 5/20-2;
 - (5) Any offense involving deadly weapons as defined in 720 ILCS 5/24 et seq.;
 - (6) Mob action as defined in 720 ILCS 5/25-1;
 - (7) Possession, manufacture or delivery of controlled substances as defined in 720 ILCS 570/401 et seq.;
 - (8) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq., except to the extent it is permitted under 10 ILCS 705/10-5;
 - (9) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5;
 - (10) Disorderly conduct as defined in 720 ILCS 5/26-1;
 - (11) Gambling as defined in 720 ILCS 5/28-1;
 - (12) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq., but not including domestic violence or sexual violence against the occupant, tenant, guest, or other party of the property in compliance with 65 ILCS 5/1-2-1.5;

- ;
- (13) Public indecency as defined in 720 ILCS 5/11-9;
 - (14) Prostitution as defined in 720 ILCS 5/11-14 et seq.;
 - (15) Criminal damage to property as defined in 720 ILCS 5/21 et seq.;
 - (16) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1-1 et seq.;
 - (17) An order imposing a fine or other sanction for violation of Chapter 5 of the Code of the City of Peoria, which order is issued by the code hearing officer pursuant to sections 5-273 through 5-284 of the Code of the City of Peoria or by a court;
 - (18) A violation of Chapter 13 of the Code of the City of Peoria, which violation is not remedied within the time allotted after service of a notice to abate as provided in Chapter 13;
 - (19) Violation of the city noise ordinance, section 15-62; 15-63; 15-65; 15-69; or 15-72;
 - (20) Violation of any City of Peoria Ordinance or State of Illinois Statute controlling or regulating the sale or use of alcoholic beverages.
- (b) *Aggravated chronic nuisance property.* Aggravated chronic nuisance property shall be property upon which two or more of the criminal offenses listed below have occurred during any 180-day period, as a result of any two separate and distinct events. Criminal offenses only count for the purposes of this Ordinance if an owner of the property, tenant, or person permitted to be at the property by an owner or tenant committed or participated in the offense. Criminal offenses will not count against the victim or victims of these criminal offenses.
- (1) First degree murder as defined in 720 ILCS 5/9-1;
 - (2) Any kidnapping offense as defined in 720 ILCS 5/10-1 et seq.;
 - (3) Criminal housing management as defined in 720 ILCS 5/12-5.1;
 - (4) Possession of explosives or incendiary devices as defined in 720 ILCS 5/20-2;
 - (5) Any offense involving deadly weapons as defined in 720 ILCS 5/24 et seq.;
 - (6) Mob action as defined in 720 ILCS 5/25-1 (a)(1), (d), (e);
 - (7) Possession, manufacture or delivery of controlled substances as defined in 720 ILCS 570/401 et seq.;
 - (8) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq., except to the extent it is permitted under 10 ILCS 705/10-5;
 - (9) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5.
- (c) Criminal offenses.

(1) Criminal offenses only count for the purposes of this Ordinance if an owner of the property, tenant, or person permitted to be at the property by an owner or tenant committed or participated in the offense. Criminal offenses will not count against the victim or victims of these criminal offenses, however if the crime victim was the initiating aggressor who committed criminal offenses against the current aggressor, that person shall not be considered a victim for the purposes of this section.

(2) A criminal offense has occurred for the purposes of 20-201(a) or (b) if conduct has resulted in a criminal conviction, pending indictment, pending criminal charge, or ticket, as appropriate to the conduct in question. In all cases, the person or persons allegedly responsible for or alleged to have participated in the conduct in question, or whose housing is at issue, will have the right to challenge that claim at a hearing before the Hearing Officer or at Court should the City of Peoria seek to enforce a fine pursuant to this Ordinance. A criminal offense will not have occurred for purposes of 20-201(a) or (b) if the conduct relies upon a sealed or expunged criminal record, or juvenile court or juvenile arrest record. For purposes of 201(a)(19), a ticketed offense for an ordinance violation will not be considered a criminal offense if the ticket is dismissed, until after the time has expired to contest the ticket, or until after a finding that the ticket was warranted.

- (d) *Control.* The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.
- (e) *Owner.* Any person, partnership, land trust, or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to:
 - (1) A mortgagee in possession in whom is vested (a) all or part of the legal title to the property; or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or
 - (2) An occupant who can control what occurs on the property; or
 - (3) Any person acting as an agent of an owner as defined herein.
- (f) *Permit or Permitted.* To allow, consent to, participate in or encourage, or expressly assent or agree to the doing of an act. A victim of domestic violence or sexual violence cannot be considered to have permitted a perpetrator's act or actions.

- (g) *Person*. Any natural person, association, partnership or corporation capable of owning or using property in the City of Peoria.
- (h) *Person in charge*. Any person in actual or constructive possession of a property, including but not limited to an owner, occupant of property under his or her domain, ownership or control.
- (hi) *Property*. Any real property, including that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permitted or not.

(Ord. No. 14616, § 1, 11-24-98; Ord. No. 15695, § 1, 10-19-04; Ord. No. 15994, § 1, 9-8-06; Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-202. - Remedies.

- (a) In the event a court including but not limited to the Hearing Officer, determines property to be a chronic nuisance property or an aggravated chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30 days, but not more than 180 days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance except that no such remedy shall be issued under this Ordinance in the event that the criminal offenses necessary to show eligibility for the chronic nuisance property or aggravated chronic nuisance property designation are not proven to have occurred before the Hearing Officer or otherwise in court, and any such remedy shall not include the eviction of individual tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the criminal offense committed by others; and also eviction of individual tenants based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the eviction of the perpetrator of the domestic violence or sexual violence.

- (b) (b) Nothing in Sec. 20-202(a) above precludes a landlord from independently enforcing the lease in accordance with the law.
- (c) In addition to the remedy provided in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in the amount of up to \$100.00 per day, payable to the City of Peoria, for each day the owner had actual knowledge that the property was a chronic nuisance property or an aggravated chronic nuisance property and permitted the property to remain a chronic nuisance property or an aggravated chronic nuisance property, except that no civil penalty shall be issued under this Ordinance in the event that the criminal offenses necessary to show eligibility for the chronic nuisance property or aggravated chronic nuisance property designation are not proven to have occurred at the Hearing.
- (d) In determining what remedy or remedies shall be employed, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:
- (1) The actions or lack of action taken by the owner to mitigate or correct the problem at the property;
 - (2) Whether the problem at the property was repeated or continuous;
 - (3) The magnitude or gravity of the problem;
 - (4) The cooperation of the person in charge with the city;
 - (5) The cost to the city to investigate and correct or attempt to correct the condition;
 - (6) The actual disturbance of neighbors;
 - (7) The recurrence of loud and obnoxious noises; and/or
 - (8) Repeated consumption of alcohol in public.
- (e) The Hearing Officer or another court may authorize the City of Peoria to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court or to take other steps necessary to abate a chronic nuisance or an aggravated chronic nuisance.
- (f) In the event that the city is authorized to secure the property or otherwise abate a chronic nuisance or an aggravated chronic nuisance, all costs reasonably incurred by the city to effect a closure or abate the nuisance shall be assessed against the owner. The City of Peoria shall submit a statement of costs to the court for its review. If no objection of the statement is made within the period prescribed by the court, or if the court, after objection is made, determines that the statement of costs is accurate, the court shall approve such costs.
- (g) Any person who is assessed the cost of abatement and/or civil penalty by the court shall be personally liable for the payment thereof to the city. If payment is not made, the city may

pursue all available collection procedures, including but not limited to the filing of a lien on the property found to be a chronic nuisance or an aggravated chronic nuisance, a civil collection action, or requesting a court to find the owner in contempt of court for nonpayment of such costs.

- (h) In the Hearing Officer or other court's discretion, a tenant may be entitled to his or her reasonable relocation costs from the owner, as those costs are determined by the court if, without actual notice, the tenant moved into the property, after the owner received notice as described herein of the police superintendent's determination as described below.
- (i) The city, in addition to any other remedies set forth herein, may, at its discretion, charge an owner of a chronic public nuisance or an aggravated chronic public nuisance with a violation of this chapter which may be processed and prosecuted as an ordinance violation.
- (j) In addition to other remedies available, the Hearing Office or other court may order the owner or person in control of the nuisance property to post a reasonable bond to assure future compliance with the statutes of the State of Illinois and the ordinances of the City of Peoria for a reasonable period of time, not to exceed one year.
- (k) Neither the City nor the Hearing Officer can require that the owner of the property evict, not renew the lease, or issue a termination notice to a lawful tenant or direct the tenant not to contact police or emergency services. If the property is lawfully leased, the rights of the landlord and the tenant are those set forth in the lease in accordance with the law.

(Ord. No. 14616, § 1, 11-24-98; Ord. No. 15994, § 2, 9-8-06; Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-203. - Notification of procedure.

When the superintendent of police of the City of Peoria or his designee receives two or more police reports documenting the occurrence of nuisance activity, as defined by section 20-201(a) of this chapter, or one or more police reports documenting the occurrence of nuisance activity, as defined by section 20-201(b) of this chapter, on or within a property, the superintendent or his designee shall independently review such reports to determine whether they describe acts set forth in section 20-201(a) or (b) of this chapter. Upon such findings, the superintendent or his designee will seek approval of the Corporation Counsel's office to issue a warning letter. A representative of the Corporation Counsel's Office will review the information in question to confirm that the property is within one violation of being eligible to be a chronic nuisance property or aggravated nuisance property and authorize the sending of a warning letter which will:

- (1) Notify the owner or person in control in writing that the property is in danger of becoming a chronic nuisance property or aggravated chronic nuisance property and also notify any tenant or tenant(s) by sending a copy of the warning letter to the address in question by first class mail, return receipt requested. The warning letter shall contain the following information:
 - a. The street address or a legal description sufficient for identification of the property.
 - b. A statement that the superintendent of police has information that the property may be chronic nuisance property or aggravated chronic nuisance property, with a concise description of the nuisance activities that may exist, or that have occurred. The superintendent of police or his designee shall offer the person in charge and any tenants who lease or reside at the property an opportunity to propose a course of action that the superintendent of police agrees will abate the nuisance activities giving rise to the violation or, if relevant, to dispute the claims.
 - c. Request that the owner and any tenant(s) who lease or reside at the property respond to the superintendent of police or his designee within ten days to discuss the nuisance activities.
 - d. The warning letter shall state that eviction, lease termination, or lease non-renewal of the tenants is not mandated or encouraged. The warning letter shall also state that no adverse action shall be taken against tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the criminal offense committed by others; and also no adverse action shall be taken against tenants based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence.
 - e. Nothing herein shall prohibit the superintendent of police or his designee from sending a warning letter after receiving one police report documenting the occurrence of a nuisance activity, as defined in section 20-201(a) of this chapter, provided that an explanation is provided to Corporation Counsel for the need to send a warning letter after one occurrence, that explanation is accepted and approved by Corporation

Counsel, and that all similar occurrences of a single nuisance activity at other properties also receive a warning letter..

(B) After complying with the warning letter procedures described in section 20-203(1), when the superintendent of police or his designee receives documentation of the occurrence of a third nuisance activity covered by section 20-201(a) or second nuisance activity covered by section 20-201(b) at or within a property and determines that the property has become a chronic nuisance property or aggravated chronic nuisance property, the superintendent of police or his designee shall:

1. Seek approval of the Corporation Counsel's office to issue a notice. A representative of the Corporation Counsel's Office will review the information in question to confirm that the property is a chronic nuisance property or aggravated nuisance property and authorize the sending of a notice.

(2) Upon approval of the Corporation Counsel's office, notify the owner or person in control in writing that the property has been determined to be a chronic nuisance property, and also notify any tenant or tenant(s) by sending a copy of the notice to the address in question by first class mail, return receipt requested. The notice shall contain the following information:

- a. The street address or legal description sufficient for identification of the property.
- b. A statement that the superintendent of police and Corporation Counsel have determined by substantiated evidence that the offenses set forth in § 20-201(a) or § 20-201(b) above have occurred, and that persons living at, responsible for, or permitted to be at the property are responsible, and therefore that the property has been determined to be a chronic nuisance property. This statement should include a concise description of the nuisance activities leading to his/her findings.

c) Request that the owner and any tenants who lease or reside at the property, respond within ten days to the superintendent of police and propose a course of action that does not include the eviction of individual tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the

criminal offense committed by others; and also does not include eviction of individual tenants based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence.

(d) If the offenses that are the basis for the chronic nuisance property or aggravated chronic nuisance property designation are alleged to have been committed by a tenant or someone on the property of the tenant, then the tenant will be given an opportunity to participate in the discussion about the proposed remedy, and to dispute the alleged violations, should the tenant choose to do so.

(1) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the owner, and shall be made either personally or by first class mail, postage prepaid.

(2) A copy of the notice shall also be posted at the property concurrently with mailing the notice to the owner and/or tenant.

(e) The notice will state that a hearing before the Hearing Officer or in another court will be required before the owner of the property will be required to pay any fine based on the property's designation as a chronic nuisance property or aggregated chronic nuisance property, and will further state that the letter or designation does not mandate or encourage that eviction, lease termination, or lease non-renewal of the tenants. The notice shall also state that no adverse action shall be taken against individual tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the criminal offense committed by others; and also no adverse action shall be taken against individual tenants based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However,

nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence.

- (f). The failure of any person to receive notice that the property may be a chronic nuisance property or aggravated chronic nuisance , after all the notice procedures in sections 20-203(d) have been completed, shall not invalidate or otherwise affect the proceedings under this chapter..
- (g). If after the notification, but prior to the commencement of an administrative hearing or other legal proceedings by the city pursuant to this chapter, an owner stipulates with the superintendent of police or his designee that the owner and, if the alleged offenses involve a tenant, the tenant stipulates with the superintendent of police or his designee that the owner will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the superintendent of police may agree to postpone legal proceedings. The course of action shall not mandate or encourage that eviction, lease termination, or lease non-renewal of the tenants. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within 30 days, the superintendent of police shall request authorization for the corporation counsel to commence an administrative hearing or other legal proceeding to abate the nuisance.
- h. Concurrent with the notification procedures set forth herein, the superintendent of police or his designee shall send copies of the notice, as well as any other documentation which supports legal proceedings to the corporation counsel.

(Ord. No. 14616, § 1, 11-24-98; Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-204. - Commence of action, burden of proof.

- (a) The corporation counsel of the City of Peoria may commence an action to abate a chronic nuisance or an aggravated chronic nuisance as described in section 20-201.
- (b) In an action seeking abatement of a chronic nuisance property or aggravated chronic nuisance property, the city shall have the initial burden of showing by preponderance of the evidence that the property is a chronic nuisance property or an aggravated chronic nuisance property.
- (c) It is a defense to an action seeking the closure of chronic nuisance property or an aggravated chronic nuisance property that the owner or person in control of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property or an aggravated chronic nuisance property, or could

not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the findings that the property is a chronic nuisance property or an aggravated chronic nuisance property.

- (d) If the offenses supporting the designation of the property as a chronic nuisance property or aggravated chronic nuisance property are alleged to be the responsibility also of a tenant or tenant of the property, or their invited guests, the tenant or tenants shall be given notice and, if they so request, allowed to present evidence disputing the alleged offenses and present defenses at the administrative hearing or other action seeking abatement of a chronic nuisance property or aggravated chronic nuisance property.

(Ord. No. 14616, § 1, 11-24-98)

Sec. 20-205. - Emergency closing procedures.

- (a) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief that does not include the eviction of individual tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the criminal offense committed by others; and also does not include the eviction of individual tenants based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence. Where there is an immediate threat to the public safety and welfare, the notification provision set forth in section 20-203 above need not be complied with; however, the city shall make a diligent effort to notify the person in charge prior to a court hearing.(b) In the event that the court finds the property constitutes a chronic nuisance property or an aggravated chronic nuisance property, and finds that the property is an immediate threat to the public safety and welfare, the court may order the remedies set forth in section 20-202 of this chapter. In addition, in the event that it also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil fine as provided above.

(Ord. No. 14616, § 1, 11-24-98; Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-206. - Severability.

If any provision of this article or its application, or any person or circumstances held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

(Ord. No. 14616, § 1, 11-24-98)

Sec. 20-207. - Permitting the use of property for illegal use or sale of illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances.

- (a) *Purpose.* The city council finds it to be in the best interests of the residents of the city and the general public to prevent illegal acts and to promote public peace, health and safety, and to this end, the city council enacts this section.
- (b) *Permitting the use of real estate for illegal drug activity.* No owner of real estate located in the city shall knowingly allow that real estate to be used as a site for any use or sale of illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances, after having received a second written notice from the police department, that a present occupant or tenant of that property has been using or selling illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances, or allowing the using or selling of illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances at that property.

A legal or equitable owner of such real estate is deemed to have knowledge of such activity upon receipt of notice set forth herein. For the purposes of this section, an owner of real estate is defined as any person who, alone, jointly or severally with others, shall have legal or equitable title or other possessory interest to any dwelling or dwelling unit, including, but not limited to, a purchaser under a contract for conditional sale of real estate commonly known as a land contract, and a lessee, sub-lessee, renter or tenant who is allowing another person to occupy the dwelling or dwelling unit. The definition of owner shall not include a mortgage lien holder or other lien holder holding an interest, which secures a debt or judgment, or a person deemed to be a legal owner who has notified the police department of the name(s) and address(es) of persons purchasing the property under a contract for conditional sale of real estate commonly known as a land contract.

- (c) *Notice.* Notice shall be deemed sufficient if done by one of the following methods:
 - (1) Sending a copy of the notice by registered or certified mail return receipt requested to the address listed by the county treasurer's office for sending notice of property taxes, or to the residence, business address, or place of employment of the person to be notified;
 - (2) Delivering a copy of the notice to the person to be notified; or
 - (3) Leaving a copy of the notice at the dwelling or usual place of abode of the person to be notified.

If, after a reasonable effort, service is not obtained by a method listed above, service shall be deemed sufficient if notice is published in a newspaper of general circulation published in the city.

- (d) *Discrimination forbidden.* Nothing in this section shall be construed to encourage or authorize the discrimination by lessors against any persons based upon race, creed, religion, sex, age, national origin, familial status or handicap. Rather, it is the intent of this section to hold persons accountable for acquiescing in or participating in the continued use of his/her

property as the location of illegal activity, after having received notice as set forth in section (c) above.

(e) *Reports, investigations and notices by the police department.*

- (1) A report of suspected illegal activities constituting the use or sale of illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances by tenants, occupants and/or their visitors, guests or invitees as observed by the owner or third persons including, but not limited to, other tenants of the property, or persons residing or working in the vicinity of the property, or city officials or employees, shall be submitted to the police department and each such report or complaint shall be individually logged.
- (2) Upon receipt of any report or complaint of such suspected illegal activities on the premises, a determination shall be made by the police department as to the need and nature of any further investigation including, but not limited to, the necessity for surveillance by the police department of such premises.
- (3) *First notice.* Upon a determination by the police department that such suspected illegal activity is taking place at a particular premises based upon lawfully obtained evidence, including, but not limited, to, personal knowledge of a police officer, information obtained from a reliable source, evidence obtained pursuant to an arrest or physical evidence obtained by a search warrant or other lawful means, a written notice shall be sent by the police department to the owner, as provided in section (c) above, of the real estate and a copy to the tenant or occupant whose premise is the subject of the investigation, by certified mail, return receipt requested, informing the owner that the initial investigation revealed alleged suspected illegal activity and the fact that there is an on-going investigation. The notice shall inform the owner that the owner shall take legal action, within 30 days of the date of the letter, to abate such suspected illegal activity, including, but not limited to, filing an eviction action, and if this does not happen, of the intent of the police department to take further legal action. The notice shall further include a request of the property owner to whom the letter is addressed to specify in writing information concerning the existence of any contract for conditional sale of real estate, commonly known as a land contract, setting forth the name, address and phone number of the purchaser under the land contract, and further specifying any other person who has a legal, equitable or possessory interest in the dwelling or dwelling unit and the pertinent information, including, but not limited to, name, address and phone number with respect to those individuals.

Any owner who believes the determination by the police department of illegal activity on the premises is insufficient to permit an eviction of the tenant or other occupant, may appeal that determination in writing within 30 days of the date of the first notice to the city manager, who may designate an official or the administrative hearing officer to review the complaint. The decision of the city manager or his designee shall be final and based upon substantial evidence and in accordance with legal principles. The city manager or his designee shall hear such appeal at the first reasonable opportunity but no less than seven days from the date of giving said appealing owner notice of the date, time and place of the meeting at which the appeal shall be heard. During such appeal and before a decision is rendered by the city manager or his designee, the city shall not commence an action against the owner for violation of this section of the City Code.

Failure to appeal to the city manager shall not prejudice the rights of the owner in any proceedings under this section.

- (4) *Second notice.* If the illegal activity has not been abated or an eviction action has not been commenced within 30 days of the first written notice, a second written notice shall be sent to the owner of the real estate, by certified mail, return receipt requested, or such other method as permitted in Section (c) above, and shall inform the owner that the investigation at the premises is continuing, and that legal proceedings may be commenced pursuant to this section. Such letter shall inform the owner of his/her failure to take some form of remedial action within ten (10) days to abate the illegal activity, including eviction of those persons conducting the illegal activity, will result in legal proceedings against said owner for violation of this section.
- Such notice shall also request, of the person to whom the letter is being submitted, any and all information concerning the existence of any contract for conditional sale of the real estate, commonly known as a land contract and any other legal equitable, or possessory interest in the dwelling unit by any other person or persons specifically requesting the name, address or other pertinent information of said individual or individuals. Said owner or other individual receiving said written notice shall be required to supply said information requested. A copy of the notice shall be sent to the chief of police, the legal department and to the tenant/occupant of the premises.
- (5) If the owner of the property fails to take required legal action to commence an eviction action or abate the illegal activities within ten days of receipt of the second notice, the legal department may proceed to collect the fines provided in this section and/or proceed under state law to abate or enjoin any suspected illegal activity as defined herein constituting a nuisance as defined under state law.
- (f) *Criteria for establishing a violation.* A violation of this section will be determined by the appropriate judicial authority based upon the totality of the circumstances present, including, but not limited to that the owner has received notices of suspected illegal activity pursuant to paragraphs (b), (c) and (e) of this section.
- (g) *Eviction proceedings as a defense.* No person shall be charged with the violation of this section if such person:
- (1) Has instituted eviction proceedings within 30 days of receipt of notice of alleged criminal activities in accordance with section (b) above, against the tenant or occupant whose suspected criminal activities would otherwise give rise to potential liability under this section;
 - (2) Has proceeded with reasonable diligence in the prosecution of said eviction proceedings;
 - (3) If any eviction proceedings are not completed within 30 days by reason of court ordered delays in such proceedings, the person charged with a violation of this section must, nonetheless, move forward expeditiously with any such eviction proceeding; or
 - (4) Has initiated an action under 735 ILCS 5/9-101 et seq. or any similar eviction law which will cause such illegal activity to cease upon the property.

- (h) *Multiple unit dwellings.* In the case of a multiple unit dwelling, the only person necessary to name in an eviction proceeding is the tenant/occupant occupying the actual unit involved with the suspected illegal activity described herein.
- (i) *Filing of criminal charges.* Charging an owner of real estate with a violation of this section shall be an adjunct to, and not substitution for, any criminal charges filed as a result of investigation by the police department against occupants or tenants of that owner's real estate premises for use or sale of illegal drugs such as cannabis, narcotics, methamphetamine or controlled substances.
- (j) *Assistance by chief of police.* The chief of police shall use reasonable efforts to train, educate and assist owners of real estate in avoiding placing tenants or occupants in their real estate who are known violators of illegal activities enumerated herein.
- (k) *Non-exclusive remedy.* The provisions of this section shall not in any manner be construed to limit or be a condition precedent to bringing an action under 735 ILCS 5/9-101 et seq.
- (l) *Violations.* It shall be a violation of this chapter for any person to knowingly allow his/her property to be used for the activities which are prohibited by this section, or fail to comply with the terms of this chapter. The violation is by property address.
- (m) *Penalty.* Any person who violates any provision of this chapter shall be subject to a civil penalty of \$750.00 per day for the first violation at a dwelling unit, the with second violation at the same dwelling unit carrying a civil penalty of \$1,500.00 per day, and the third and subsequent violations at the same dwelling unit carrying a penalty of \$2,500.00 per day. Each day a violation exists shall be considered a separate violation and a court may assess a monetary civil penalty for each day a violation exists. The fines for the second and any subsequent violations shall be imposed irrespective of the tenant or occupant of the premises and shall be imposed only if the person fined was an owner in a previous violation.
- (n) The police officers will appear in court to testify if subpoenaed by the property owners.
- (o) *Limited indemnification.* The City of Peoria shall provide a limited indemnification to an owner of real estate who has initiated eviction proceedings in court and is sued or a counterclaim is asserted by the individual who is sought to evict, under the following terms and conditions:
 - (1) The premises which are the subject of the eviction proceedings are located in the City of Peoria;
 - (2) Eviction proceedings are instituted in Peoria County in compliance with 735 ILCS 5/9-101 et seq.;
 - (3) The owner of the property received notice from the police department under subsection (e)(3) or (4) above to abate the illegal activity of the premises and instituted eviction proceedings solely because of such notice;
 - (4) The owner instituted eviction proceedings within 30 days of receipt of the notice in subsection (e)(3) or within ten days of the receipt of the notice in subsection (e)(4) above;
 - (5) The owner has given the office of the corporation counsel no less than 30 days' written notice of the trial date of any claim, lawsuit or counterclaim against said owner, and no

less than 72 hours' written notice of any claim, lawsuit or counterclaim against said owner; any such notice shall be in writing and sent by U.S. mail, return receipt requested;

- (6) The claim, counterclaim or lawsuit is based upon an alleged illegality or unconstitutionality of this section of the City Code or the negligence of the police department in providing information to the owner and relied upon by the owner as a basis of bringing an action against the tenant or other occupant of the premises sought to be evicted;
- (7) The owner fully and expeditiously cooperates with the office of the corporation counsel in defense of such claim, lawsuit or counterclaim, including but not limited to allowing the office of the corporation counsel to intervene in the lawsuit and take control over the defense of such claim, lawsuit or counterclaim;
- (8) The office of the corporation counsel is permitted to pursue any and all appeals of the decision of the court on behalf of the owner; and
- (9) The tenant or person sought to be evicted prevails on his/her claim, lawsuit or counterclaim solely based upon a finding of illegality or unconstitutionality of this ordinance or the negligence of the police department in supplying the information to the owner and not on a finding of procedural wrongdoing or other improprieties of illegalities of the owner in pursuing the eviction. If the tenant or person sought to be evicted prevails on his/her claim, lawsuit or counterclaim based upon any other reason, including but not limited to, procedural wrongdoing, or the negligence, bad faith, or other impropriety or illegality of the owner, then the indemnity shall not apply.

(Ord. No. 16214, § 1, 11-27-07)

Editor's note— It should be noted that Ord. No. 16214 becomes effective January 1, 2008.

Sec. 20-208. - Chronic nuisance rental property.

- (a) *Chronic nuisance landlord.* A chronic nuisance landlord shall be any person who alone or jointly or severally with other(s) holds legal titles as shown by the records of the Peoria County Recorder of Deed Office or is the beneficial owner or owners of a land trust that holds legal titles to two or more properties that within an 18-month period have be deemed chronic or aggravated chronic nuisances or have been used for illegal drug activities under the Code of the City of Peoria, sections 20-200 through 20-207.
- (b) *Notice and appeal.* Upon the determination by the chief of police or the chronic nuisance police officer that the owner or owners of the property is a chronic nuisance landlord

but before a notice is issued, the Corporation Counsel will confirm that the owner or owners of the property is a chronic nuisance landlord and that that incidents leading to that determination did not involve tenants who are exempted as defined in Section 20-201 above, including: (1) victims of domestic violence or sexual violence; (2) victims of crimes; (3) innocent third-parties who did not permit the criminal offense committed by others; and also confirms that the incidents leading to that determination are not based on: (4) a police call made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability as defined under 65 ILCS 5/1-2-1.5; or (5) calls to the police to report alleged wrongdoing or emergency calls made by persons residing at the property or others on that person's or persons' behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence.

A written notice shall be sent by first class mail, postage prepaid, return receipt requested or personally served to the owner and the tenants at the last known address or the address as stated in the registration statement required under Chapter 5 of the Code or such other place which is likely to give the person in charge notice of the

determination by the chief of police of the chronic nuisance police officer. Said notice shall state the reasons for the determination and the right of the owner and tenants to seek an appeal of the police's determination to the administrative hearing officer within 30 days from date of the notice, pursuant to Section 20-203(1)(d). Within 15 days of a timely request for a hearing on appeal, the city shall set a hearing and notify the owner and tenants at the address indicated on the written notice of the appeal, the date, time, and place of said hearing. Any owner who fails to timely request an appeal of the determination from the police department or upon the final decision by the administrative hearing officer affirming the determination by the chief of police or the chronic nuisance officer, said owner shall be deemed as a chronic nuisance landlord.

The hearing officer may consider the following nonexclusive factors in determining whether to affirm the determination by the chief of police or the chronic nuisance officer:

- (1) The property owner's history of City Code violations including pending and past administrative and court cases; fines assessed in cases; judgments entered for all properties owned by the owner either alone, jointly, or severally with other(s) or as a benefit owner of a land trust; and
 - (2) Any other factors, including the cost to the City to investigate, correct or attempt to correct the conditions of the properties for code violations, chronic nuisance violations, and other conditions rendering the properties detrimental to the quality of life for surrounding inhabitants.
- (c) A chronic nuisance landlord shall comply with the following conditions as well as any conditions required in Article XIII of Chapter 5 pertaining to registration of lots of any properties owned by the chronic nuisance landlord:
- (1) Within 45 days from the date the owner has been deemed a chronic nuisance landlord, the chronic nuisance landlord shall have all his/her properties within the city be inspected by a certified private property inspector approved by the City of Peoria at the owner's

expense and said inspection reports shall be submitted to the city within seven days of the inspection.

- (2) Any property owned by a chronic nuisance landlord found to be in violation of the City Code shall be subject to code hearing proceedings.
- (3) A chronic nuisance landlord shall attend responsible landlord training provided by the Peoria Police Department Neighborhood Services Unit.
- (
 - (4) Within 30 days from the date the owner has been deemed a chronic nuisance landlord, the chronic nuisance landlord must initiate the legal eviction process of tenant(s) who were the subject of the chronic nuisance violation or illegal activities or take other remedial actions approved by the city. Such eviction shall not include tenant(s) who are exempted as defined in Section 20-201 above, including: victims of domestic violence or sexual violence, victims of crimes, innocent third parties, or based on police calls ~~made by~~ or calls for emergency assistance made by the tenants or others on their behalf, except for calls that violate 720 ILCS 5/26-1(a)(6). However, nothing with respect to this section prevents the sole eviction of the perpetrator of the domestic violence or sexual violence.
- (d) *Discrimination forbidden.* Nothing in this section shall be construed to encourage or authorize the discrimination by lessors against any persons based upon race, creed, religion, sex, age, national origin, familial status or disability. Rather, it is the intent of this section to hold persons accountable for acquiescing in or participating in the continued use of his/her property as the location of illegal activity.
- (e) *Penalty.* Any person who violates any provisions of this section shall be subject to a fine of \$750.00 per day for each violation. Each day a violation exists shall be considered a separate violation for each day a violation exists.
- (f) In addition to the code hearing proceedings, the corporation counsel of the City of Peoria may commence court action to obtain injunctive relief against a chronic nuisance landlord who fails to comply with the conditions prescribed in above subsection (c).

- (1) The court may appoint a receiver to take possession and control of all the rental properties owned by the chronic nuisance landlord at the expense of the owner in the event the owner fails to comply with the conditions of this section.
- (2) In the event that the city is authorized to secure the property or otherwise abate a chronic nuisance or an aggravated chronic nuisance, all costs reasonably incurred by the city to effect a closure or abate the nuisance shall be assessed against the owner. The City of Peoria shall submit a statement of costs to the court for its review. If no objection of the statement is made within the period prescribed by the court, or if the court, after objection is made, determines that the statement of costs is accurate, the court shall approve such costs.
- (3) Any person who is assessed the cost of abatement and/or civil penalty by the court shall be personally liable for the payment thereof to the city. If payment is not made, the city may pursue all available collection procedures, including but not limited to the filing of a lien or requesting a court to find the owner in contempt of court for nonpayment of such costs.
- (4) In addition to any other remedies available, the court may order the chronic nuisance landlord to post a reasonable bond to assure future compliance with the statutes of the State of Illinois and the ordinances of the City of Peoria for a reasonable period of time, not to exceed one year.

(Ord. No. 17115, § 1, 6-24-14; Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-209 Tenants Protection from Retaliation:

- (a) It is declared to be against public policy of the City of Peoria for a landlord to take retaliatory action against a tenant, except for violation of a rental agreement or violation of a law or ordinance. A landlord may not knowingly terminate a tenancy, increase rent, decrease services, bring or threaten to bring a lawsuit against a tenant for possession or refuse to renew a lease or tenancy because the tenant has in good faith:
 - (1) contacted the police for assistance or where the police were contacted on their behalf; or

(2) testified in any court or administrative proceeding pursuant to this chapter.

(b) Any person convicted of violating this section shall be fined not less than \$200.00 nor more than \$2,500.00.

(c) If the landlord acts in violation of this section, the tenant has a private right of action against the landlord and a defense in any retaliatory action against him for possession. The tenant is entitled to the following remedies: recover possession or terminate the rental agreement and, in either case, recover an amount equal to and not more than two months' rent or twice the damages sustained, whichever is greater, and reasonable attorneys' fees. If the rental agreement is terminated, the landlord shall return all security and interest and all prepaid rent. In an action by or against the tenant, if there is evidence of tenant conduct protected herein within one year prior to the alleged act of retaliation, that evidence shall create a rebuttable presumption that the landlord's conduct was retaliatory. The presumption shall not arise if the protected tenant activity was initiated after the alleged act of retaliation.

Sec. 20-210. - Conflict with state or federal law.

The provisions or the application of Article VIII of Chapter 20 shall not be interpreted in any manner inconsistent with state or federal law and Chapter 20 is expressly subject to the Violence Against Women Act of 2013, 42 U.S.C. § 14043e *et seq.*, the United States Housing Act, 42 U.S.C. § 1437 *et seq.*, and the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*

(Ord. No. [17329](#), § 1, 2-9-16)

Sec. 20-211. – Promulgation of Rules and Procedures.

Within 60 days of the passage of this revised ordinance, the Superintendent of Police shall promulgate written rules and procedures for the Nuisance Abatement staff and Neighborhood Services Unit in compliance with this revised ordinance.

Section 3: That Chapter 17, Article 1 (Fair Housing Commission), Section 3 (Duties of fair housing commission) of the Code of the City of Peoria is hereby revised in its entirety by adding the following underlined language and deleting any stricken language:

Sec. 17-3. - Duties of fair housing commission.

The Commission shall have the power and it shall be its duty:

- (1) The complainant and the respondent, or their designated representative, shall have the right to request that one member of the commission not participate in the hearing or, if the matter is to be heard by a three-member hearing board, to request that one of the remaining members replace one of the three members on the hearing board. The administration shall also have the right to remove an individual from hearing the matter or, if the matter is to be heard by three-member hearing board, to replace an individual on the hearing board with one of the remaining members of the commission.
- (2) To cause a complaint received by the fair housing to be served upon a respondent within its jurisdiction and to fix a reasonable time and place for hearing such complaint when necessary.
- (3) To render an annual written report of its activities and recommendations to the mayor and city council.
- (4) To adopt such rules and regulations as may be necessary to carry out the purpose and intent of sections 17-1 through 17-7.
- (5) To designate from its membership persons to serve on a three-member hearing board, one person to be designated chairperson to hear complaints as provided for in section 17-32. No

member is to be permitted to serve on the board for more than three consecutive complaints within a one-year period.

(6) To review, monitor and make recommendations to the city manager and city council on the hiring and employment practices of the city and the city council concerning the city's affirmative action efforts in connection with contracts which the city enters into.

(7) To annually review, monitor, and make recommendations to the city manager and city council regarding the data collected and analyzed by the City of Peoria concerning the enforcement of Section 20 and compliance with Section 17.

Section 4: That Chapter 5 (Buildings and Building Regulations), Article IV (Property Maintenance Codes), Section 294 (Retaliatory eviction by owner) of the Code of the City of Peoria is hereby revised in its entirety by adding the following underlined language and deleting any stricken language:

Sec. 5-294. – Retaliatory eviction by owner.

(a) No owner or lessor shall evict or cause to evict or terminate the tenancy of a renter or lessee ~~solely as retaliation because that renter or lessee complains to the city or the circuit court of the county against the owner charging the owner with violation of this article or with violation of any warranty of habitability accruing to the renter or lessee from the owner.~~

~~(b) Any person convicted of violating this section shall be fined not less than \$200.00 nor more than \$2,500.00.~~ or not renew a lease, increase rent, decrease services of a renter or lessee, solely as retaliation because that renter or lessee:

(1) complains to the city or the circuit court of the county that the owner has violated this article or any warranty of habitability accruing to the renter or lessee from the owner; contacted the police for assistance or where the police were contacted on their behalf;

- (2) Complained of a building, housing, health or similar code violation or an illegal landlord practice to a community organization or the news media;
- (3) Sought the assistance of a community organization or the news media to remedy a code violation or illegal landlord practice;
- (4) Requested the landlord to make repairs to the premises as required by a building code, health ordinance, other regulation, or the residential rental agreement; or
- (5) Become a member of a tenant's union or similar organization;

(b) Any person convicted of violating this section shall be fined not less than \$200.00 nor more than \$2,500.00.

(c) If the landlord acts in violation of this section, the tenant has a private right of action against the landlord and a defense in any retaliatory action against him for possession. The tenant is entitled to the following remedies: recover possession or terminate the rental agreement and, in either case, recover an amount equal to and not more than two months' rent or twice the damages sustained, whichever is greater, and reasonable attorneys' fees. If the rental agreement is terminated, the landlord shall return all security and interest and all prepaid rent. In an action by or against the tenant, if there is evidence of tenant conduct protected herein within one year prior to the alleged act of retaliation, that evidence shall create a rebuttable presumption that the landlord's conduct was retaliatory. The presumption shall not arise if the protected tenant activity was initiated after the alleged act of retaliation.

(d) Tenant Complaints: Any tenant or household member may contact the City of Peoria to complain of building, housing, health or similar code violation or an illegal landlord practice. The city shall investigate each complaint, including conducting a rental housing inspection and finding the landlord in violation of the city's applicable codes and ordinances. The city shall prominently display and promote information regarding where tenants can call to complain of building, housing, health or similar code violations or an illegal landlord practice.

Section 5. This ordinance shall be in full force and effect immediately after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this
22ND day of SEPTEMBER, 2020.



ATTEST:

Beth Ball
Beth Ball, City Clerk

APPROVED:

Jim Ardis
Jim Ardis, Mayor

EXAMINED AND APPROVED:

Chrissie L. Peterson
Corporation Counsel