

**AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE
OF THE CITY OF PEORIA, ILLINOIS, ARTICLE VIII PERTAINING TO
CHRONIC NUISANCE PROPERTY**

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, Public Act 99-441, 65 ILCS 5/1-2-1.5, prohibits a municipality from enacting or enforcing any ordinance or regulations that penalize tenants and landlords based on calls involving domestic violence, sexual violence and calls made on behalf of an individual with disabilities; and

WHEREAS, Public Act 99-441, 65 ILCS 5/1-2-1.5, specifically preempts Home Rule Authority; and

WHEREAS, although the City of Peoria's chronic nuisance ordinance was not interpreted or applied to penalize victims of domestic or sexual violence or individuals with disabilities, this ordinance amending Chapter 20 of the Code of the City of Peoria will clearly conform with Public Act 99-441, 65 ILCS 5/1-2-1.5;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

SECTION 1. Article VIII of Chapter 20 of the City Code is hereby amended by deleting the following stricken words and by adding the following underlined words:

ARTICLE VIII. NUISANCES

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 365-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)~~ Sexual abuse or related offenses as defined in 720 ILCS 5/12-15 et seq.;
- (98) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq.;
- (409) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5;
- (4410) Disorderly conduct as defined in 720 ILCS 5/26-1;
- (4211) Gambling as defined in 720 ILCS 5/28-1;
- (4312) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq., but not including domestic violence;
- (4413) Public indecency as defined in 720 ILCS 5/11-9;
- (4514) Prostitution as defined in 720 ILCS 5/11-14 et seq.;
- (4615) Criminal damage to property as defined in 720 ILCS 5/21 et seq.;
- (4716) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1-1 et seq.;
- (4817) 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;
- (4918) 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;
- (2019) Violation of the city noise ordinance, section 15-62; 15-63; 15-65; 15-69; or 15-72;
- (2420) 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 365-day period, as a result of any two 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 (a)(1), (d), (e);
- (7) Possession, manufacture or delivery of controlled substances as defined in 720 ILCS 570/401 et seq.;
- ~~(8) Sexual abuse or related offenses as defined in 720 ILCS 5/12-15 et seq.;~~
- (98) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq.;
- (409) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5.

(c) Control. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

(d) Owner. Any person, partnership, land trust, or corporation having any legal or equitable interest in the property. eOwner 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.

(e) Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

(f) Person. Any natural person, association, partnership or corporation capable of owning or using property in the City of Peoria.

(g) 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.

(h) 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.

Sec. 20-202. Remedies.

(a) In the event a court 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 the remedy shall not include the eviction of

individual tenants who are victims of domestic violence or sexual violence or based on 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.

(b) 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.

(c) 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 disturbance of neighbors;
- (7) The recurrence of loud and obnoxious noises; and/or
- (8) Repeated consumption of alcohol in public.

(d) The 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.

(e) 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.

(f) 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.

(g) In the 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.

(h) 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.

(i) In addition to other remedies available, the 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.

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 may:

- (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. The notice 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 an opportunity to propose a course of action that the superintendent of police agrees will abate the nuisance activities giving rise to the violation.
 - c. Demand that the owner respond to the superintendent of police or his designee within ten days to discuss the nuisance activities.

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.

- (2) After complying with the notification procedures described herein when the superintendent of police or his designee receives a police report documenting the occurrence of a third nuisance activity 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:
- a. Notify the owner or person in control in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:
 1. The street address or legal description sufficient for identification of the property.
 2. A statement that the superintendent of police has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to his/her findings.
 3. Demand that the owner 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 victims of domestic violence or sexual violence or based on 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 and the superintendent of police agrees will abate the nuisance activities giving rise to the violation.
 4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the owner at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the superintendent of police.
 5. 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.
 6. A copy of the notice shall also be posted at the property after ten days has elapsed from the service or mailing of the notice to the owner and the owner has not contacted the superintendent of police.
 - b. The failure of any person to receive notice that the property may be a chronic nuisance property or aggravated chronic nuisance property shall not invalidate or otherwise affect the proceedings under this chapter. The notification procedures set forth in this section 20-203 need not be followed in cases of aggravated chronic public nuisances.
 - c. If after the notification, but prior to the commencement of legal proceedings by the city pursuant to this chapter, an owner 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 for not less than ten days nor more than 30 days. The course of action to abate the nuisance activities shall not include the eviction of individual tenants who are victims of domestic or sexual violence or based on 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. 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 a legal proceeding to abate the nuisance.

- d. 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.

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 victims of domestic or sexual violence or based on 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, as is deemed by the corporation counsel to be appropriate. In such an event, 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.

Sec. 20-208. Chronic Nuisance Rental Property.

(a) *Chronic Nuisance Landlord.* 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 a 18-month period have been 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, a written notice shall be sent by first class mail, postage prepaid, return receipt requested or personally served to the owner 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 or the chronic nuisance police officer. Said notice shall state the reasons for the determination and the right of the owner to seek an appeal of the police's determination to the administrative hearing officer within 30 days from date of the notice. Within 15 days of a timely request for a hearing on appeal, the City shall set a hearing and notify the owner 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 non-exclusive factors in determining whether to affirm the determination by the chief of police or the chronic nuisance officer:

- (1) The history of calls to police on disturbance complaints including loud parties; disorderly conduct; public drunkenness; disorderly house; fights; or other offenses that disturb the peace and comfort of surrounding residents or occupants, but the history of calls to police shall not include calls made with the intent to prevent or respond to domestic violence or sexual violence; intervention or emergency assistance needed to respond to or prevent domestic violence or sexual violence; or based on 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;
- (2) 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
- (3) 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 7 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 conduct criminal background checks at the owner's expense and shall use the model lease approved by the City for any future tenants to all of their properties.
- (4) A Chronic Nuisance Landlord shall attend Responsible Landlord training provided by the Peoria Police Department Neighborhood Services Unit.
- (5) A Chronic Nuisance Landlord may not rent property to a tenant they have previously evicted based upon chronic nuisance violations from one of their other properties.
- (6) 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 victims of crimes or based on 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.

(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.

(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.

Sec. 20-209. 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.

Section 2. This ordinance shall be in full force and effect immediately after its publication in pamphlet form.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel