

shall be punished by a fine of not less than \$50.00 and no more than as provided in section 1-5 of this Code for each offense.

(b) Any person found guilty in a court of law for violating section 20-192(a) shall be punished by a fine of \$ 500.00.
(Ord. No. 14581, § 1, 9-22-98)

Secs. 20-194—20-199. Reserved.

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 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;

*Cross reference—Nuisances, § 15-96 et seq.

- (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.;
- (9) Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq.;
- (10) Sale, delivery or possession of drug paraphernalia, as defined in 720 ILCS 600/3 and 3.5;
- (11) Disorderly conduct as defined in 720 ILCS 5/26-1;
- (12) Gambling as defined in 720 ILCS 5/28-1;
- (13) Assault or battery or any related offense as defined in 720 ILCS 5/12-1 et seq.;
- (14) Public indecency as defined in 720 ILCS 5/11-9;
- (15) Prostitution as defined in 720 ILCS 5/11-14 et seq.;
- (16) Criminal damage to property as defined in 720 ILCS 5/21 et seq.;
- (17) Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1-1 et seq.;
- (18) 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;
- (19) 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;
- (20) Violation of the city noise ordinance, section 15-62; 15-63; 15-65; 15-69; or 15-72;
- (21) 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.;
- (9) Possession, cultivation, manufacture of delivery of cannabis as defined in 720 ILCS 550/1 et seq.;
- (10) 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. 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.

(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. (Ord. No. 14616, § 1, 11-24-98; Ord. No. 15695, § 1, 10-19-04; Ord. No. 15994, § 1, 9-8-06)

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.

(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.

(Ord. No. 14616, § 1, 11-24-98; Ord. No. 15994, § 2, 9-8-06)

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 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. 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.

(Ord. No. 14616, § 1, 11-24-98)

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.

(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, 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.

(Ord. No. 14616, § 1, 11-24-98)

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.

Secs. 20-208—20-219. Reserved.

**ARTICLE VIII. GANG/NARCOTICS
LOITERING**

Sec. 20-220. Gang loitering.

(a) Whenever a police officer observes a member of a criminal street gang engaged in gang loitering with one or more other persons in any public place designated for the enforcement of this section under subsection (b), the police officer shall, subject to all applicable procedures promulgated by the superintendent of police; (i) inform all such persons that they are engaged in gang loitering with an area in which loitering by groups containing criminal street gang members is prohibited; (ii) order all such persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued; and (iii) inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further gang loitering within sight or hearing of the place at which the order was issued during the next three hours.

(b) The superintendent of police shall by written directive designate areas of the city in which the superintendent has determined that enforcement of this section is necessary because gang loitering has enabled criminal street gangs to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities. Prior to making a determination under this subsection, the superintendent shall consult as he/she deems appropriate