

CITY OF WELLINGTON
ORDINANCE # 5, SERIES 2021-2022

AN ORDINANCE REGARDING CRIMINAL NUISANCE ACTIVITIES
IN THE CITY OF WELLINGTON

WHEREAS, the City is desirous of aiding law enforcement in recognizing certain criminal activities as a public nuisance and enforcing penalties of such activities, and;

WHEREAS, the City is further desirous of its citizens safety and enjoyment of their real property;

NOW THEREFORE, be it ordained by the City of Wellington that:

Section 1: CRIMINAL ACTIVITY AS A PUBLIC NUISANCE

(A) For the purposes of this section, PUBLIC NUISANCE shall mean any of the following criminal activity:

- a. Any contraband production contaminated premises
- b. Any premises, other than hotels/motels, where law enforcement officers, on more than one occasion in the preceding 12-month period, have been subject to (i) an official incident report, (ii) a criminal or administrative citation, or (iii) an arrest of a person or persons for any of the following violations:
 - i. Disorderly Conduct under KRS Chapter 525;
 - ii. Criminal Trespass under KRS Chapter 511;
 - iii. Alcohol Intoxication under KRS Chapter 222;
 - iv. Receiving Stolen Property under KRS Chapter 514 and 110;
 - v. Prostitution and/or human trafficking offenses under KRS Chapter 529;
 - vi. Sexual offenses under KRS Chapter 510;
 - vii. Gambling offenses under KRS Chapter 528;
 - viii. The sale or use of alcoholic beverages on or from either licensed or unlicensed premises;
 - ix. Misdemeanor or felony possession, trafficking, or manufacturing drug offenses under KRS Chapter 218A;
 - x. Murder under KRS 507.020 and manslaughter under KRS 507.030 and KRS 507.040;
 - xi. Assault or related offenses under KRS Chapter 508 (with an exception for victims of domestic violence reporting a violation of an EPO or DVO); or
 - xii. Theft offenses under KRS Chapter 514.

Section 2: UNLAWFUL USE OF PREMISES

(B) No owner of residential, commercial or vacant property located in the City of Wellington shall allow his or her premises to be used as the site for any public nuisance, as defined in subsection (A) of this section. A legal or equitable owner of such premises is deemed to have knowledge of such activity upon receipt of the notice as set forth in this chapter.

- a. No person or owner shall destroy, remove or deface any order or notice posted by the City of Strathmoor Village Police Department, (hereinafter referred to as "SVPD") or any other governmental agency having authority to regulate and/or enforce state statutes related to this ordinance (hereinafter referred to as "other government agency.")
- b. No person or owner shall disobey any order issued by the City of Strathmoor Village Police Department or any other government agency, or use or occupy or permit any other person to use or occupy any premises ordered closed by the SVPD or any other government agency.

Section 3: DUTIES OF GOVERNMENT AGENCIES

- a. Duties of Law Enforcement Officers.
 - i. Should law enforcement officer(s) have reason to believe that a property where no citations or arrests have occurred has been used for contraband production as defined in this chapter, the officer(s) shall immediately notify the local health department.
- b. Duties of SVPD and Procedures for Violations
 - ii. Notice. After an initial report of an offense contained in this chapter, the SVPD shall notify the owner of the property that further violations will constitute a public nuisance. Following a second report that a public nuisance exists in or upon residential, commercial or vacant property, the SVPD shall notify the owner that the property is a public nuisance and that the public nuisance must be abated. Such notice shall be in writing.
 - iii. Citation and Order. Should the public nuisance not be fully abated at the time stated in the notice, the SVPD shall be authorized at any time thereafter to issue a citation and an order closing and vacating the premises to the extent necessary to abate the public nuisance. The SVPD may order a property to close and vacate for a reasonable period of time, but in no event shall the order closing and vacating be for a period of more than one year from the date of the closing. A close and vacate order issued by the SVPD, pursuant to this subchapter is not an act of possession, ownership, or control by the City Government. A citation and a close and vacate order will be rescinded within 14 days of full abatement unless such premises is the site of another close and vacate order within 60 days.
 1. If the premises consists of multi-unit dwellings, apartment buildings or mixed uses and the public nuisance has occurred solely within a unit or units, the authority to close and vacate is restricted to the unit or units in which the public nuisance has occurred, and does not extend to any other unit in the premises. This provision is not applicable to hotels, motels, licensed boarding and lodging houses.
 2. Upon the issuance of any order provided for in this section, a copy of the order shall be served on the owner of the property in the same manner as

the notice provided for in this chapter, and a copy shall be conspicuously posted on the property.

- iv. Punitive Actions. If any person or owner fails to comply with a citation and an order to close and vacate issued pursuant to this subsection, the SVPD may:
 1. Revoke the certificate of occupancy of the premises; or
 2. Use any other legal remedy available under the laws of the state.
- v. Relief from Order. The SVPD may vacate or suspend the provisions of an Order to close and vacate upon a showing by clear and convincing evidence that the public nuisance has been abated and will not be maintained or permitted in any unit of the premises.
- vi. Pursuant to the provisions of KRS 65.8801 et seq., the City Government shall possess a lien against the property for all fines, penalties, charges, abatement costs, and fees imposed to abate the public nuisance.
- vii. Owner's Rights.
 1. Eviction as a Defense. It shall be a defense to a violation of this section if the owner has instituted an eviction proceeding within 30 days against the offending tenants or occupants of the subject premises, and completes the eviction within 75 days of commencement or as soon thereafter as court procedures allow. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, abatement of the public nuisance by eviction will be stayed until the judicial or quasi-judicial proceeding is resolved. In the case of multi-unit dwellings, apartment buildings, or mixed uses, the only parties necessary to name in an eviction proceeding are the occupants of the actual unit involved with the activity suspected, or the occupants suspected of the activity described in the notice.
 2. Other Defenses. The City may consider evidence presented by any person or owner directly affected by a citation, notice of violation, or order regarding whether the owner knew or should have known of the violations and whether reasonable steps were taken to abate the violations by removing the offender, notifying police of the violation(s), and/or securing vacant property.
 3. Abatement Actions not in Violation of Law. Actions taken by an owner to abate a public nuisance as defined in this section shall not be deemed to be violations of Fair Housing or Landlord-Tenant laws.

Section 4: PENALTY

(C) Each day during which such violation continues shall be deemed a separate offense for which a separate fine may be imposed. Any violation of this chapter shall subject the offender to fines, penalties, and forfeitures that may be imposed by law, and the city may secure injunctions and abatement orders, when appropriate, to insure compliance with its ordinances as authorized by KRS 83A.065. Any city nuisance ordinance may be enforced by any one, all, or a combination of the remedies authorized by this chapter.

- a. The first offense: \$100

b. The second offense: \$200


c. Each additional offense: increasing \$100 for each occasion, up to the maximum amount allowed by law.

Section 5: This ordinance shall be effective upon its passage and upon publication.

First Reading 3/28/22

Second Reading 4/25/22

Passed and Approved 4/25/22


Mayor

Attest:
Luis Roby
Clerk

Votes in Favor 4
Votes Opposed 0