

ORDINANCE #18-08

AN ORDINANCE REGARDING CRIMINAL ACTIVITY AS A NUISANCE

Be it hereby ordained by the City Commission of the City of New Castle, Kentucky as follows:

CRIMINAL ACTIVITY AS A PUBLIC NUISANCE:

- (A) For the purposes of this section, PUBLIC NUISANCE shall mean any of the following criminal activity:
- (1) Any contraband production contaminated premises.
 - (2) Any premises where law enforcement officers, on more than one occasion in the preceding 12-month period, where each such offense listed below begins a new 12 month period, have issued (i) an official incident report, or (ii) criminally or administratively cited, or (iii) arrested a person for any of the following violations:
 - (a) Prostitution and/or human trafficking offenses under KRS Chapter 529;
 - (b) Sexual offenses under KRS Chapter 510 with the exception of KRS 510.150;
 - (c) Gambling offenses under KRS Chapter 528;
 - (d) The sale or use of alcoholic beverages on or from either a licensed or unlicensed premises;
 - (e) Misdemeanor or felony possession, trafficking or manufacturing drug offenses under KRS Chapter 218A
 - (f) Murder under KRS 507.020 and manslaughter under KRS 507.030 and KRS 507.040;
 - (g) Assault or related offenses under KRS Chapter 508;or
 - (h) Theft offenses under KRS Chapter 514.
- (B) Unlawful use of premises. No owner of residential, commercial or vacant property located in the City of New Castle 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.
- (1) No person or owner shall destroy, remove or deface any order or notice posted by the Code Enforcement Officer.
 - (2) No person or owner shall disobey any order issued by the Code Enforcement Officer, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Code Enforcement Officer.
- (C) Duties of Government Agencies.
- (1) Duties of law enforcement officers.
 - (a) Law enforcement agencies shall notify the Code Enforcement Officer in writing of any official incident reports, criminal citations, or arrests made in connection with criminal activities identified in subsection (A) Notification must be made within 30 days with details concerning the specific violation investigated, the address of the property on or in which violations occurred, and the circumstances of the violation.
 - (2) Duties of Code Enforcement Officer and procedures for violations.
 - (a) Notice. After an initial report from law enforcement of an offense contained in this chapter, the Code Enforcement Officer shall notify the owner of the property that further violations will constitute a public nuisance. Following a second report from law enforcement to the Code Enforcement Officer that a public nuisance exists in or upon residential, commercial or vacant property, the Code Enforcement Officer shall notify

the owner that the property is a public nuisance and that the public nuisance must be abated.

- (b) Citation and Order. Should the public nuisance not be fully abated at the time stated in the notice, the Code Enforcement Officer 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 Code Enforcement Officer 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 closing. A close and vacate order issued by the Code Enforcement Officer, pursuant to this subchapter is not an act of possession, ownership or control by the City of New Castle. 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 consist 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.
 - 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.
- (c) 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 Code Enforcement Officer may:
 - (1) Discontinue the furnishing of utility service by the City of New Castle to the premises at which the nuisance exists;
 - (2) Revoke the certificate of occupancy of the premises;
 - (3) Use any other legal remedy available under the laws of the state; and/or
 - (4) The Code Enforcement Officer may initiate criminal proceedings in the Henry district Court for violation of the provisions of Subsection (B) of this ordinance. Each day that a public nuisance exists on a property shall constitute a separate offense and shall constitute a misdemeanor carrying up to 12 months in the County Jail and/or a fine of \$500.00.
- (d) Relief from order. The Code Enforcement Officer 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.
- (e) Pursuant to the provisions of KRS 65.8801 et. Seq., the City of New Castle shall possess a lien against the property for all fines, penalties, charges, abatement costs, and fees imposed to abate the public nuisance. The City Attorney for the City of New Castle shall have the power to file a civil action in the Courts of Henry County, in order to enforce the lien for fines, penalties, charges, abatement costs and fees and/or seek abatement of the nuisance in question.
- (f) 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.

Done this 10th day of September, 2018.

City of New Castle, Kentucky

Dennis Benham, Mayor

Attest:

Lynn B. Adams, City Clerk/Treas.

First Reading: 08/06/18

Second Reading: 09/10/18

Publication: 09/19/18