

CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 2022-20

AN ORDINANCE ADDING A NEW ARTICLE TO GEORGETOWN CODE OF ORDINANCES CHAPTER 26, REGARDING PUBLIC NUISANCES.

SUMMARY

1. Defines “public nuisance,” for purposes of Chapter 26, Article III, and prohibits a property owner from allowing his/her/its property to be used as the site for a public nuisance.
2. Provides for abatement procedures, including the requirement that the owner be given notice of the public nuisance, implications of failure to abate the nuisance, process for citation issuance and orders to close and vacate, appellate rights and the City’s possession of a lien for fines, abatement costs and reasonable administrative fees.
3. Establishes fines and remedies for failure to comply, prohibits destruction of posted notices, requires obedience of orders to close and vacate and clarifies that, in cases of multiple unit dwellings, an order to close and vacate is limited to the unit(s) in which the public nuisance has occurred.
4. Lists defenses to a violation of the Article and provides that the owner has the burden of asserting such defense.
5. Provides for repeal of inconsistent ordinances, severability of provisions and an effective date upon passage and publication.

The full text of Ordinance 2022-20 is available for examination in the City Clerk’s Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: June 13, 2022

PUBLICLY READ SECOND TIME AND PASSED: June 27, 2022

APPROVED: *Tom Prather*
[Tom Prather \(Jun 28, 2022 15:29 EDT\)](#)
Tom Prather, Mayor

ATTEST: *Tracie Hoffman*
[Tracie Hoffman \(Jun 29, 2022 10:12 EDT\)](#)
Tracie Hoffman, City Clerk

I, Devon Elise Golden, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 2022-20 of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9) and is a true and accurate summary of the contents of said Ordinance.



Devon Elise Golden

ORDINANCE 2022-20

AN ORDINANCE ADDING A NEW ARTICLE TO GEORGETOWN CODE OF ORDINANCES CHAPTER 26, REGARDING PUBLIC NUISANCES.

SPONSORS: Greg Hampton and Todd Stone

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY AS FOLLOWS:

SECTION ONE

Chapter 26, Article III of the Georgetown Code of Ordinances, entitled "Public Nuisances," is created to read as follows:

Sec. 26-50. Definition.

For purposes of this Article, the term "public nuisance" is hereby defined as any premises or place where law enforcement officers have, on more than two (2) occasions in a twelve (12) month period, criminally cited or arrested a person or persons for violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises or any felony, or executed a court-issued search warrant for violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises or any felony. Instances in which the owner or occupant is the victim of the crime and had no control over the criminal act, including domestic violence calls for service, shall not be considered in the number of occasions.

Sec. 26-51. Prohibition.

No owner of property located within the city of Georgetown shall allow his, her or its property to be used as the site for any public nuisance after having received notice pursuant to Section 26-53 that the property has been used for the commission of a public nuisance. This prohibition shall apply to both rental and owner-occupied property. A legal or equitable owner of the property is deemed to have knowledge of such activity upon receipt of the notice as set forth in this Article.

Sec. 26-52. Enforcement.

Georgetown Police Department, also referred to as "police department," shall be

responsible for enforcement of Sections 26-50 through 26-54 relating to public nuisances. The term code official, as used in this Article, shall refer to the chief of police or his or her designated representative.

Sec. 26-53. Abatement procedure.

- (a) *Duty to notify owner.* Whenever the code official has reason to believe that a public nuisance exists in or upon property, he shall notify the owner of the property, and any representative designated by the owner pursuant to subsection (c) below, that the property is being used in a manner that constitutes a public nuisance and that the public nuisance must be abated. Such notice shall be made in writing and (1) delivered to the property owner and any designated representative via personal service or regular US Mail and (2) posted in a conspicuous place on the property.
- (b) *Failure to abate.* Should the owner fail to abate the public nuisance after receiving the notice required by subsection (a), above, it shall be the duty of the code official to serve or cause to be served a citation upon the owner of the premises upon which there is kept or maintained a public nuisance in violation of Section 26-51. In addition to prescribing a civil fine as authorized by Section 26-54, the citation may also demand that the violation be abated within a prescribed time. If the violation is not abated within the prescribed time, the city may issue an order closing and vacating the premises to the extent necessary to abate the public nuisance. Such closing and vacating shall be for such period of time as the code official reasonably may direct, but in no event shall the closing and vacating be for a period of more than one (1) year from the date of closing. An order to close and vacate issued pursuant to this Section is not an act of possession, ownership or control by the city. An order to close and vacate shall be rescinded within fourteen (14) days of an abatement, unless such premises are the site of repeated orders to close and vacate. The city may take reasonable steps to enforce the order to close and vacate the premises to the extent necessary to abate the public nuisance, should the owner fail to do so. The city shall keep an account of the expense of the abatement, including the reasonable value of labor and materials used and a reasonable administrative fee, and such expense shall be charged to and paid by the owner of the property.
- (c) *Service of citation; order to close and vacate.* A citation issued under this Section shall conform with Chapter 2, Article VI of the Georgetown Code of Ordinances. An order to close and vacate shall be served in the same manner as the citation and shall also be posted in a conspicuous place on the premises affected by the notice. Any property

owner may voluntarily file with the police department a completed certificate, on a form provided by the police department, that provides the name and address of a management company or designated representative with authority over the subject property or an alternative address of the property owner to which all notices issued under this Article also shall be served.

- (d) *Right to a hearing and appeal.* Any person issued a citation or order to close and vacate under this Article shall have the right to a hearing under the provisions of Chapter 2, Article VI of the Georgetown Code of Ordinances.
- (e) *Lien.* The city shall possess a lien on the subject property, in accordance with Section 2-840 of the Code of Ordinances, for all civil fines and the cost of any abatement, including a reasonable administrative fee, issued or incurred under this Article.

Sec. 26-54. Action on failure to comply.

If any person fails to comply with a notice to abate a public nuisance, the code official may take any, or a combination of any, of the following remedial actions:

- (a) Issue a citation assessing a civil fine of not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00) per violation;
- (b) Issue an order to close and vacate the premises to the extent necessary to abate the public nuisance;
- (c) Revoke the certificate of occupancy of the premises; or
- (d) Use any other legal remedy available under the laws of the Commonwealth.

Sec. 26-55. Destroying, removing or defacing notice; disobeying order.

No person shall destroy, remove or deface any notice or order posted by the code official. No person shall disobey any order to close and vacate or use or occupy or permit any other person to use or occupy any premises ordered closed.

Sec. 26-56. Multiple unit dwellings.

If the premises consist of multiple unit dwellings or mixed uses and the public nuisance has occurred solely within a unit or units, the authority to issue an order 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(s) on the premises.

Sec. 26-57. Defense to violation.

It shall be a defense to a violation of this Article if the owner has instituted an eviction

proceeding within thirty (30) days of the notice or order against the offending tenant(s) and all occupants of the premises and completes the eviction within seventy-five (75) days of commencement of the eviction proceeding or as soon thereafter as court procedure will allow. In the event that judicial or quasi-judicial proceedings prohibit an owner from proceeding with an eviction, enforcement under this Article will be stayed until the judicial or quasi-judicial proceeding is resolved. It shall be the responsibility of the owner to provide, in writing to the code official, notice that an eviction proceeding has been instituted and to provide such other proof of such proceeding as may reasonably be requested by the code official.

SECTION TWO

If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

SECTION THREE

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION FOUR

This Ordinance shall be in full force and effect upon passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: June 13, 2022

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