



Legislation Text

File #: O-273-22, Version: 1

Councilwoman Morris

Amending Toledo Municipal Code Section 533.19(a) Declared Nuisance; Abatement and 533.21, “Criminal conviction required”, and enacting a new Toledo Municipal Code Section 533.19(a) and 533.21; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo, has actively been pursuing illegal operations and nuisance locations that utilize an overabundance of police time. There are after hours bars and other locations that are a nuisance to the residents and to the resources of the City. The city has been successful at times obtaining the closure of a location by a padlock granted by the Judge. The city needs all tools it can use to fight these locations. The amendments will make it easier to close down a problem/illegal location.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Section 533.19 (a) of the Toledo Municipal Code which reads as follows:

533.19. Declared nuisances; abatement.

(a) Any building, vehicle, boat, aircraft, or place used for the purpose of lewdness, soliciting for prostitution or prostitution or gambling, or used by, or kept for the use of prostitutes or other disorderly persons or used for the unlawful manufacturing, transporting, sale, keeping for sale, bartering, or furnishing of any controlled substance, counterfeit controlled substance, drug paraphernalia or harmful intoxicant, or any vinous, malt, brewed, fermented, spirituous, or intoxicating liquors or any mixed liquors or beverages, or any part of which is intoxicating, or which is used in, or obtained in, the commission of a theft offense, house stripping, vandalism or a violation of Revised Code § 4737.04 is declared a nuisance, and the furniture, fixtures, and contents of the building, the vehicle, boat, aircraft, or place and all intoxicating liquors therein are also declared a nuisance, and all controlled substances and nuisances shall be enjoined and abated as provided in § [533.21](#) and as provided in the court rules. Any person or his or her servant, agent or employee who owns, leases, conducts or maintains any building, vehicle or place used for any of the purposes or acts set forth in this section is guilty of a nuisance.

is hereby repealed.

SECTION 2. That a new Section 533.19(a) of the Toledo Municipal Code is hereby enacted to read as follows:

533.19. Declared nuisances; abatement.

(a) Any building, vehicle, boat, aircraft, or place used for the purpose of lewdness, soliciting for prostitution or prostitution or gambling, or used by, or kept for the use of prostitutes or other disorderly persons or used for the unlawful manufacturing, transporting, sale, keeping for sale, bartering, or furnishing of any controlled substance, counterfeit controlled substance, drug paraphernalia or harmful intoxicant, or any vinous, malt,

brewed, fermented, spirituous, or intoxicating liquors or any mixed liquors or beverages, or any part of which is intoxicating, or which is used in, or obtained in, the commission of a theft offense, house stripping, vandalism, or a violation of Revised Code § 4737.04 or a nuisance as defined in § 1726.01 is declared a nuisance for purposes of §§ 533.20 and 533.21, and the furniture, fixtures, and contents of the building, the vehicle, boat, aircraft, or place and all intoxicating liquors therein are also declared a nuisance, and all controlled substances and nuisances shall be enjoined and abated as provided in § [533.21](#) and as provided in the court rules. Any person or his or her servant, agent or employee who owns, leases, conducts or maintains any building, vehicle or place used for any of the purposes or acts set forth in this section is guilty of a nuisance.

SECTION 3. That Section 533.21 of the Toledo Municipal Code which reads as follows:

533.21. Order of abatement; closing of building, removal of contents, sale; contempt.

(a) **Order of abatement.** If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all furniture, fixtures and contents therein and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released as in this chapter provided.

(b) **Vehicles, sale.** Any vehicle, boat, or aircraft found by the court to be a nuisance within the meaning of this chapter, is subject to the same order and judgment as any furniture, fixtures and contents as herein provided.

(c) **Sale of personalty, costs, liens, balance to State Treasurer.** Upon the sale of any furniture, fixtures, contents, vehicle, boat or aircraft as provided in this section, the officer executing the order of the court shall, after deducting the expenses of keeping such property and costs of such sale, pay all liens according to their priorities which may be established by intervention or otherwise at the hearing or in other proceedings brought for the purpose as being bona fide and as having been created without the lienor having any notice that such property was being used or was to be used for the maintenance of a nuisance as herein defined, and shall pay the balance to the Treasurer to be credited to the Toledo Police Law Enforcement Trust Fund Account 90-5200-8990-T32302-STD-STD of the City of Toledo which has as its purpose to pay the expenses associated with the investigation and prosecution of nuisance offenses as they are defined in Toledo Municipal Code Section [533.19](#).

(d) **Use of closed building; contempt.** If any person uses a building or place so directed to be closed, with knowledge that such building or place has been ordered closed shall be guilty of a misdemeanor of the fourth degree.

(e) **Family hardship.** A family or household member of the person who is the owner of property used to maintain a nuisance may file a motion with the court having jurisdiction over the action to abate a nuisance claiming that the order of abatement and sale of the property will create an undue hardship on the family or household member. If the court determines by a preponderance of the evidence that an undue hardship would be caused to a family or household member filing said motion, no order of abatement shall issue. The court shall then order the property released to the movant after all costs of the seizure and storage of the property have been paid by the movant; except that no motion shall be granted where the movant has previously filed a motion pursuant to this subsection in this or any other nuisance case or where the person using the property to create a nuisance was a family or household member of any person filing a motion pursuant to this subsection in any previous case or has previously been convicted of soliciting.

As used in this section, "family or household member" shall have the same meaning as it is defined in Section [537.19](#) of the Toledo Municipal Code.

(f) **Criminal conviction required.** No order of abatement shall be issued by the court unless and until there has been a criminal charge filed and a conviction obtained against a person using the property alleged to be a

nuisance in connection with the criminal offense charged.
(Ord. 580-97. Passed 9-16-97.)

is hereby repealed.

SECTION 4. That a new Section 533.21 of the Toledo Municipal Code is hereby enacted to read as follows:

533.21. Order of abatement; closing of building, removal of contents, sale; contempt.

(a) **Order of abatement.** If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all furniture, fixtures and contents therein and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released as in this chapter provided.

(b) **Vehicles, sale.** Any vehicle, boat, or aircraft found by the court to be a nuisance within the meaning of this chapter, is subject to the same order and judgment as any furniture, fixtures and contents as herein provided.

(c) **Sale of personalty, costs, liens, balance to State Treasurer.** Upon the sale of any furniture, fixtures, contents, vehicle, boat or aircraft as provided in this section, the officer executing the order of the court shall, after deducting the expenses of keeping such property and costs of such sale, pay all liens according to their priorities which may be established by intervention or otherwise at the hearing or in other proceedings brought for the purpose as being bona fide and as having been created without the lienor having any notice that such property was being used or was to be used for the maintenance of a nuisance as herein defined, and shall pay the balance to the Treasurer to be credited to the Toledo Police Law Enforcement Trust Fund Account 90-5200-8990-T32302-STD-STD of the City of Toledo which has as its purpose to pay the expenses associated with the investigation and prosecution of nuisance offenses as they are defined in [§ 533.19](#).

(d) **Use of closed building; contempt.** If any person uses a building or place so directed to be closed, with knowledge that such building or place has been ordered closed shall be guilty of a misdemeanor of the fourth degree.

(e) **Family hardship.** A family or household member of the person who is the owner of property used to maintain a nuisance may file a motion with the court having jurisdiction over the action to abate a nuisance claiming that the order of abatement and sale of the property will create an undue hardship on the family or household member. If the court determines by a preponderance of the evidence that an undue hardship would be caused to a family or household member filing said motion, no order of abatement shall issue. The court shall then order the property released to the movant after all costs of the seizure and storage of the property have been paid by the movant; except that no motion shall be granted where the movant has previously filed a motion pursuant to this subsection in this or any other nuisance case or where the person using the property to create a nuisance was a family or household member of any person filing a motion pursuant to this subsection in any previous case or has previously been convicted of soliciting.

As used in this section, "family or household member" shall have the same meaning as it is defined in [§ 537.19](#)

SECTION 5. That this ordinance is hereby declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health safety, and property, and for the further reason that this ordinance must be effective to pursue illegal operations and nuisance locations.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
Clerk of Council