

ORDINANCE NO. 2024-097

AN ORDINANCE AMENDING CHAPTER 501 (GENERAL PROVISIONS & PENALTY) AND CHAPTER 1367 (LICENSING REQUIREMENTS) OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, AND DECLARING AN EMERGENCY.

WHEREAS, the City has been in several court cases associated with the rental licensing program; and

WHEREAS, Portage County Common Pleas court has issued an "Agreed Judgment Entry" in November (Case No. 2022CV00576) finding the City's rental licensing inspection program constitutional but determined the City's practice of certifying excessive unpaid civil offense fines onto the property owner's tax duplicate, when a landlord does not comply with the program, unconstitutional.

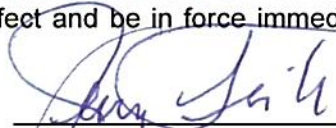
NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio:

SECTION 1. That Kent City Council does hereby amend Chapter 501, General Provisions and Penalty, and Chapter 1367, Licensing Requirements of the Codified Ordinances of the City of Kent per Exhibit "A" attached hereto and incorporated herein.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: September 18, 2024
Date

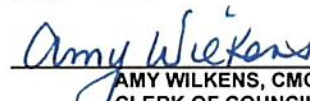


Jerry T. Flala
Mayor and President of Council

EFFECTIVE: September 18, 2024
Date

ATTEST: Amy Wilkens
Amy Wilkens, CMC
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2024-097, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON September 18, 2024.



AMY WILKENS, CMC
CLERK OF COUNCIL
(SEAL)

1367.98 VIOLATION OF "NOTICE TO TENANTS;" REQUIREMENT IN 1367.02.

Any owner or operator of a residential rental unit in violation of the standards set forth in Section 1367.02 shall be subject to a civil offense in accordance with Section 501.13 of the Codified Ordinances, including the right to notice, the right to answer a charge, the right to appeal, the amount of the fine, and the City's right to have the fine increase, but NOT including the right to a warning under Section 501.13(c) of the Codified Ordinances. Issuing a Notice of Civil Offense does not limit the City of Kent from pursuing any other additional legal remedies not prohibited by ordinance, including but not limited to seeking an administrative warrant and injunctive relief.

(Ord. 2016-40. Passed 4-20-16.)

1367.99 VIOLATING A MINIMUM STANDARD SET FORTH IN CHAPTER 1367.

Any owner or operator of a residential rental unit in violation of the standards set forth in Chapter 1367 other than Section 1367.02 shall be subject to a civil offense in accordance with Section 501.13 of the Codified Ordinances, including the right to notice, the right to answer a charge, the right to appeal, the amount of the fine, and the City's right to have the fine increase. Issuing a Notice of Civil Offense does not limit the City of Kent from pursuing any other additional legal remedies not prohibited by ordinance, including but not limited to seeking an administrative warrant and injunctive relief.

(Ord. 2019-90. Passed 8-21-19.)

501.13 CIVIL OFFENSES.

(a) **Civil Offenses:** A property owner who violates a standard of conduct set forth in a section or chapter of the Kent Codified Ordinances listed in Section 501.13 (b) is liable for the civil offense fine specified in Section 501.13 (m). Neither the City of Kent, the State of Ohio, the United States Government, nor any other political subdivision, is liable for a civil fine imposed pursuant to this Chapter.

(b) **Qualifying Civil Offenses:** A property owner who violates a standard of conduct set forth in Sections 505.22, 521.13; 521.15; 521.16; any part of Chapter 551; any Section of Part 11 of the City of Kent Zoning and Planning Code; any Section of Part 13 of the City of Kent Building Code; and/or any Section of Part 14 of the City of Kent Property Maintenance, Housing and Enforcement Code shall be deemed an offending property owner and is liable for the civil offenses specified in Section 501.13 (m,n).

(Ord. 2018-117. Passed 10-17-18.)

(c) Procedures for violations of Section 521.13; any Section of Part 11 of the City of Kent Zoning and Planning Code; any Section of Part 13 of the City of Kent Building Code; and/or any Section of Part 14 of the City of Kent Property Maintenance, Housing and Enforcement Code except Section 1414:

(1) Unless otherwise exempted by Section 501, prior to issuing a Notice of Civil Offense, the City officer or employee charged with enforcement of the Kent Codified Ordinances who observes a violation of Section 521.13; any Section of Part 11 of the City of Kent Zoning and Planning Code; any Section of Part 13 of the City of Kent Building Code (except 1367.02); and/or any Section of Part 14 of the City of Kent Property Maintenance, Housing and Enforcement Code (except Section 1414), shall provide the offending property owner with a warning.

(NOTE: no amendments to any sections between 501.13(c) and (g) so not copied here)

(g) Answering a Notice of Civil Offense and Hearing for a Civil Offense:

(1) An offending property owner served with a Notice of Civil Offense charging a civil offense may file a written answer admitting the civil offense. The answer may be delivered in person or mailed to the City of Kent Community Development Department and must be received by the City within ten (10) days from the date of the notice.

(a) Payment of the civil offense fine specified in the notice shall be deemed an admission of the violation by the offending property owner;

(b) An answer with a full payment admitting that the offending property owner violated an ordinance with proof of correction shall be evaluated by the Director of Community Development to determine whether the correction was made within the first forty-eight (48) hours of receiving the Notice of Civil Offense. If the correction was made within the first forty-eight (48) hours, the offending property owner will be eligible for a refund of fifty percent (50%) which will be issued within thirty (30) business days of the Director of Community Development's decision.

(c) An offending property owner who fails to respond within the ten (10) days shall be deemed in default and an admission to the offense by the offending property owner. An offending property owner subject to a civil fine entered after default may request to have the default set aside. A hearing officer may set aside a default on a showing that the offending property owner had no actual knowledge of the Notice of Civil Offense and civil fine or that the default should be excused in the interest of justice.

(2) An offending property owner served with a Notice of Civil Offense may file a written response to the notice which shall be delivered in person or mailed to the City of Kent Community Development Department and must be received by the City of Kent Community Development Department within ten (10) days from the date of the notice.

(a) If the written response filed by the offending property owner denies the violation(s) listed in the Notice of Civil Offense, the offending party must submit a request for a hearing or the civil offense remains in effect.

(b) If the offending property owner has taken an administrative appeal authorized by the Kent Codified Ordinances from an order on which the offense was based, the offending property owner may request that the time for answering the Notice of Civil Offense be continued until the appeal has been finally resolved.

Hearings for Civil Offenses:

(3) An offending property owner who denies the commission of a civil offense may request a hearing before a hearing officer. The request shall be filed with the Community Development Office for the City of Kent which shall set a date for the hearing and notify the offending property owner, in writing, of the date, time and location of the hearing. The hearing may be informal, but all testimony shall be under oath. The hearing officer shall be appointed by the Director of Community Development.

(4) All hearings shall be scheduled within ten (10) days and will be held within fifteen (15) days from the date the request for a hearing is filed. Any hearing date may be modified if such modification is agreed to by the offending property owner, by the City officer or employee who issued the charge and by the hearing officer, or if such modification is necessary in the interest of justice.

(5) The hearing officer shall enter into the record of the proceedings the notice of the civil offense and civil fine, the filing of or failure to file an answer, the substance of the answer, a finding of liability, the civil fine due, payments, delinquency and collection charges, and other relevant information.

(6) The hearing officer shall issue a decision and make findings of fact from the record and conclusions of law in support of the decision within ten (10) days from close of the hearing. The findings and conclusions shall demonstrate that the decision is consistent with applicable laws, ordinances, regulations and the interest of justice. Any unpaid civil fine is due and must be paid within ten (10) days after the date of the hearing officer's decision.

(7) If the offending property owner has taken an administrative appeal authorized by the Kent Codified Ordinances from an order on which the offense was based, the hearing officer must extend the time for answering the Notice of Civil Offense until the appeal has been finally resolved.

(NOTE: no amendments to any sections between 501.13(g) and (m) so not copied here)

(m) Fines:

(1) The initial civil offense fine is \$100. This amount is due within ten (10) days of the offending property owner being personally or constructively served with a Notice of Civil Offense.

(2) A second civil offense, for the same offense with the same offending property owner within two (2) years, fine is \$200.

(3) A third or greater civil offense for the same offense with the same offending property owner within two (2) years is \$300.

(4) Unless within ten (10) days of the offending property owner being personally or constructively served with a Notice of Civil Offense the fine is paid or an answer is filed, the civil offense fine shall automatically double on the eleventh day.

(5) In accordance with Section [501.13\(g\)\(2\)\(a\)](#), if an individual requests a hearing and fails to attend, the civil offense fine shall automatically double.

(6) The applicable civil offense fine shall be reduced by fifty percent (50%) if the person documents that the violation has been corrected within forty-eight (48) hours of the notice being posted.

(7) If the fine is sent for collection, the applicable civil offense fine shall be doubled again plus any additional costs incurred by the City.

(8) If after twenty (20) days the violation has still not been corrected, the City may hire someone to remove the nuisance, and the actual costs incurred by the City shall be added to the fine.

(9) Any costs incurred by the City of Kent to abate a violation shall be assessed against the offending property owner. This amount shall not be subject to doubling.

(10) Each day a property is in violation constitutes a separate offense and may be subject to a separate civil offense fine.

(11) The Community Development Director shall have the right to reduce a civil offense fine if justice so requires based upon seriousness of the offense, the level of cooperation from the offending property owner, and/or the offending property owner's previous history of compliance.

(Ord. 2016-07. Passed 1-20-16.)