

ORDINANCE NO. 2025 - 004

AN ORDINANCE AMENDING PART THIRTEEN-BUILDING CODE OF THE KENT CODIFIED ORDINANCES IN ORDER TO ENSURE CONSISTENCY OF THE CIVIL OFFENSE WARNING AND/OR FINE IN THE PENALTY SECTIONS AND DECLARING AN EMERGENCY.

WHEREAS, Section 501.13 "Civil Offenses" of the City Codified Ordinances specifies that a violation of "any section of Chapter 13 of the City of Kent Building Code" is subject to enforcement through the issuance of a civil offense warning and/or fine; and

WHEREAS, the City of Kent wishes to amend sections 1308.99; 1311.99, 1313.99, 1315.01, 1315.99, 1333.99, 1337.06, 1339.99, 1341.99 and 1393.33 in order to ensure consistency of the civil offense warning and/or fine in the penalty sections.

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

SECTION 1. That Council does hereby amend Part Thirteen-Building Code of the Kent Codified Ordinances in order to ensure consistency of the civil offense warning and/or fine in the penalty sections per Exhibit "A", attached hereto and made a part thereof.

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: January 22, 2025
Date


EFFECTIVE: January 22, 2025
Date

ATTEST: Kathleen Coleman
Kathleen Coleman
Interim Clerk of Council

Jerry T. Fiala
Jerry T. Fiala
Mayor and President of Council

I, KATHLEEN COLEMAN, INTERIM 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. 2025-004, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON January 22, 2025.

(SEAL)


KATHLEEN COLEMAN
INTERIM CLERK OF COUNCIL



CITY OF KENT, OHIO

DEPARTMENT OF COMMUNITY DEVELOPMENT

DATE: December 31, 2024
TO: Dave Ruller, City Manager
FROM: Bridget Susel, Community Development Director
RE: Part Thirteen-Building Code Amendments

The Community Development Department recently became aware of an enforcement conflict with regards to addressing situations of noncompliance under various chapters of “Part Thirteen-Building Code” of the Kent Codified Ordinances (KCO).

Section 501.13 “Civil Offenses” of the KCO specifies that violations of “any Section of Chapter 13 of the City of Kent Building Code” is subject to enforcement through the issuance of a civil offense warning and/or fine. A recent review of Part 13, however, noted that several chapters listed misdemeanors (criminal) offenses as the penalty for noncompliance.

In order to ensure consistency of enforcement, the Law and Community Development Departments are proposing to utilize the same language that was recently approved for the penalty that applies to the rental licensing program to other sections of the City’s Building Code. The City will still maintain its right to utilize other legal means to ensure compliance, including but not limited to injunctive relief.

I am respectfully requesting time at the January 8, 2025 Council Committee meeting to discuss the attached in greater detail and to request Council authorization, with emergency, of the proposed amendments.

If you need any additional information in order to add this item to the agenda, please let me know.

Thank you.

Attachment

Cc: Hope Jones, Law Director
Eric Fink, Assistant law Director
Kathy Coleman, Interim Clerk of Council
Bob Nitzsche, Chief Building Official
CD Building Department Staff

PART THIRTEEN - BUILDING CODE

TITLE ONE - Building Standards

Chap. 1303. One, Two and Three Family Dwellings

TITLE THREE - Building Administration

Chap. 1308. Contractor Registration.

Chap. 1309. Board of Building Appeals

Chap. 1311. Building, Wrecking and Moving Permits

Chap. 1312. Schedule of Fees

Chap. 1313. Inspections; Electrical and Plumbing Permits

Chap. 1315. Revocation of Permits; Penalties

TITLE FIVE - Local Building Provisions

Chap. 1333. Numbering Structures

Chap. 1337. Flood Damage Control

Chap. 1339. Technical Plan Review and Conformance

Chap. 1341. Annual Registration of Vacant Houses and Buildings and
Registration Fees

TITLE SEVEN - Environmental Health and Housing Maintenance Code

Chap. 1361. General Provisions.

Chap. 1363. Definitions

Chap. 1365. Minimum Standards and Requirements

Chap. 1367. Licensing Requirements

Chap. 1371. Enforcement and Penalty

Chap. 1373. Repairs and Demolition

TITLE TEN - Exterior Property Maintenance Code

Chap. 1381. Title, scope, and conflict.

Chap. 1383. Definitions.

Chap. 1385. Administration and Enforcement.

Chap. 1387. Exterior Property Maintenance.

Chap. 1389. Notice of Violation, Corrective Action, and Appeals.

Chap. 1391. Effective Date.

Chap. 1393. Historic Preservation

CODIFIED ORDINANCES OF KENT

PART THIRTEEN - BUILDING CODE

Revocation of permits; penalties - see BLDG. Ch. 1315

1308.99 PENALTY.

~~Any person who violates any part of this Chapter shall be subject to the following penalties:~~

~~—(a) First Violation: Written citation and \$250.00 fine.~~

~~—(b) Second Violation: \$500.00 fine and classified as suspended and ineligible to register/perform work within the City for a period of one (1) year from the date of the violation.~~

~~—(c) \$500.00 fine per occurrence subsequent to issuance of the second violation.~~

~~—(d) The City of Kent shall also have such remedies as are available under State of Ohio law, including but not limited to, injunctive relief. (Ord. 2014-155. Passed 12-17-14.)~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

CHAPTER 1311
Building, Wrecking and Moving Permits

1311.99 PENALTY.

~~—Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 1999-96. Passed 8-11-99.)~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1313.99 PENALTY.

~~—Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree as defined in Section 501.99. Each day's violation shall constitute a separate offense.~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

CHAPTER 1315

Revocation of Permits; Penalties

1315.01 Violations; additional fees for work started without permit.

1315.01 VIOLATIONS; ADDITIONAL FEE FOR WORK STARTED WITHOUT PERMIT.

(a) No person shall fail to obtain a building permit, plumbing permit, electrical permit, heating permit, sign or signboard permit, moving permit, wrecking permit, sewer permit, water tap permit, curb cut permit, street opening permit, tree removal permit or any other permit as required by City regulations.

~~(b) A 100 percent additional fee shall be charged for all permits which are not obtained before any work is started, which additional fee shall apply to all permits required by the City. (Ord. 1965-97. Passed 7-21-65.)~~

1315.99 PENALTY.

~~Whoever violates any of the provisions of this chapter, except in the case of penalties elsewhere provided in the Codified Ordinances for violations of Section 1315.01 is guilty of a minor misdemeanor as defined in Section 501.99. Each day's violation shall constitute a separate offense.~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1333.99 PENALTY.

~~Any person, firm or corporation failing to so identify, within sixty days after the passage of this chapter (Ordinance 1976-19, passed February 18, 1976), any house, building or other structure occupied by him, shall be fined twenty five dollars (\$25.00). Each day's continued violation shall constitute a separate offense. (Ord. 1976-19. Passed 2-18-76.)~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1337.06 ENFORCEMENT PENALTY

~~(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Kent. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Kent from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Kent shall prosecute any violation of these regulations in accordance with the penalties stated herein.~~

(c) Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1339.99 PENALTY.

~~Whoever violates any provision of this chapter or any code adopted herein or fails to comply with any lawful order issued pursuant thereto shall be fined not more than one hundred dollars (\$100.00). Each day during which noncompliance or a violation continues shall constitute a separate offense. The Municipality may institute injunction proceedings in Common Pleas Court to abate the nuisance of failure to comply with any lawful order issued pursuant to this chapter. (Ord. 2001-71. Passed 7-18-01.)~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1341.99 VIOLATIONS AND PENALTIES.

~~The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant house or building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall be fined ten dollars (\$10.00) per day for each day it is late.~~

~~—(a) Renewal Fee: The fee for renewal of a vacated building maintenance license to be determined by Section 1341.07, shall be paid at the time of application for renewal. A renewal license shall expire on the annual renewal date. The annual renewal date shall be December 31 of each year.~~

~~—(b) Late Fee: In addition to the amount assessed for the vacated building maintenance license, the Chief Building Official shall charge a late fee equal to the license or renewal fee~~

~~or \$100.00, whichever is less, if the owner fails to obtain a vacated building maintenance license within the time provided by Section 1341.04 and Section 1341.07 or if the owner fails to apply for renewal of a vacated building maintenance license before the annual renewal date. Unpaid Late Fees shall be considered a debt collectible pursuant to Section 1341.12.~~

~~—(c) Refund: The Community Development Director inspections shall refund the fees for a vacated building maintenance license paid if the subject building is brought into compliance with the standards of Chapter 1341 and reoccupied within one year of payment of the application fee.~~

~~—(d) Revocation of waivers. One year, two year and 90-day extension of waivers issued pursuant to Section 1341.10 and 1341.11 shall be revoked by the Community Development Director if the property owner violates or provides false information in any provision, of sections 1341.03, 1341.06, 1341.07, 1341.08, 1341.13, 1341.15 of this chapter. (Ord. 2011-124. Passed 12-14-11.)~~

Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

1393.13 PENALTY.

~~—(a) Any person violating the provisions of this chapter by failing to perform any act required by this chapter or performing any act which is prohibited by this chapter shall be guilty of a minor misdemeanor and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than one hundred fifty dollars (\$150.00) for each offense. Every day on which a violation exists shall constitute a separate violation and a separate minor misdemeanor. (Ord. 2012-21. Passed 2-15-12.)~~

(a) Any owner, contractor, developer, operator or designer in violation of the standards set forth in this Section 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 remedies not prohibited by ordinance.

(b) Any person who demolishes, alters or constructs a building or structure in violation of this chapter shall be required to restore the building or structure and its site to its appearance prior to the violation. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.