

## ORDINANCE NO 2020-97

**AN ORDINANCE ENACTING THE PROHIBITION OF MASS GATHERINGS OF MORE THAN TEN (10) NON-HOUSEHOLD MEMBERS WITHIN THE CITY OF KENT, OHIO, IN ORDER TO LIMIT THE SPREAD OF COVID-19, ALLOWING FOR CIVIL PENALTIES, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Constitution of the State of Ohio, in Article XVIII, Section 3, grants municipalities the authority to exercise all powers of local self-government and to enforce local police, sanitary, and other similar regulations as are not in conflict with the general laws; and

**WHEREAS**, pursuant to this constitutional home rule authority, the people of the City of Kent have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and enforce local police power regulations; and

**WHEREAS**, the City has substantial, legitimate interests in preserving and maintaining the health of Kent residents, members of the university community, including students, and guests by stopping the spread of COVID-19; and

**WHEREAS**, COVID-19 is a respiratory disease that can result in serious illness or death and can be easily spread from person to person; and

**WHEREAS**, the Centers for Disease Control and Prevention (CDC) reported over 4 million cases of COVID-19 in the United States, resulting in over 156,000 deaths; and

**WHEREAS**, on March 9, 2020, the Ohio Department of Health announced confirmed cases of COVID-19 in the State of Ohio, creating a dangerous condition that may affect the health, safety, and welfare of the citizens of Ohio; and

**WHEREAS**, on that same date Governor Mike DeWine declared a state of emergency for the entire State of Ohio to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19; and

**WHEREAS**, COVID-19 endangers the lives of the citizens and residents of Kent, creating an emergency to life and public safety and disrupting commerce; and

**WHEREAS**, the CDC reports that people are most contagious when they are most symptomatic, but the virus is also spread by people who are infected, but asymptomatic; and

**WHEREAS**, on March 15, 2020, the CDC issued Interim Guidance for mass gatherings or large community events, stating that such events that consist of fifty (50) or more people should be cancelled or postponed; and

**WHEREAS**, on March 17, 2020, the Ohio Department of Health issued an Amended Director's Order to limit and/or prohibit mass gatherings and the closure of venues in the State of Ohio; and

**WHEREAS**, on March 22, 2020, under the direction of Ohio Governor, Mike DeWine, Ohio Department of Health Director, Amy Acton, M.D. issued an Order requiring all Ohioans to stay in their homes to prevent the further spread of COVID-19 until April 6, 2020 and the Order was extended until May 1, 2020 and has been since amended on April 30, May 20 and May 22, 2020 to allow businesses to open with the recommendation that facial coverings be worn except in certain circumstances; and

**WHEREAS**, the Governor and the Ohio Department of Health have issued amended Director's Orders to both protect citizens, residents, and guests of the State of Ohio, all of which are incorporated herein by reference; and

**WHEREAS**, as businesses have re-opened, more people are traveling throughout the state, and within the City of Kent; and

**WHEREAS**, a local and statewide state of emergency continues to exist with limits on mass gatherings and recommendations of social distancing; and

**WHEREAS**, Kent State University (the "University") announced it will allow students on campus for the Fall semester, which shall include both in person and virtual classes; and

**WHEREAS**, the return of students to the University will result in a large influx of people from across the country and international students; and

**WHEREAS**, due to the above described statewide emergency there is a continuing need to protect all citizens and residents and guests of the City of Kent from the risks relating to the COVID-19 pandemic; and

**WHEREAS**, the CDC recommends wearing facial coverings in public where other physical distancing measures are difficult to maintain to help prevent the spread of COVID- 19 from asymptomatic or unknowing carriers to others; and

**WHEREAS**, on July 14, 2020, the City of Kent issued an ordinance requiring facial coverings in any public space within the City of Kent, Ohio, to limit the spread of COVID-19, and declaring an emergency; and

**WHEREAS**, on July 23, 2020, the Ohio Department of Health issued a facial covering Order mandating that individuals be required to wear facial coverings throughout the State of Ohio; and

**WHEREAS**, multiple areas of the United States are experiencing "community spread" of the virus that causes COVID-19. Community spread, defined as the transmission of an illness for which the source is unknown, means that isolation of known areas of infection is no longer enough to control the spread; and

**WHEREAS**, SARS-CoV-2, the virus that causes COVID-19, has been demonstrated to transmit infection from infected persons when symptomatic, asymptomatic, and pre-symptomatic; and

**WHEREAS**, mass gatherings, defined as non-household gatherings of greater than ten (10) people, increase the risk of community transmission of the virus COVID-19; and

**WHEREAS**, after weighing the known information from the COVID-19 virus and considering the guidance and orders from the Ohio Department of Health and Kent Health Department, City Council concludes that the safety of City of Kent citizens, residents and guests is best protected by implementing a requirement prohibiting mass gatherings of non-household members, both indoors and outdoors, with mass gatherings defined to mean more than ten (10) individuals, as set forth herein; and

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** That Council hereby enacts Chapter 511; attached here to as Exhibit "A" and made an integral part hereof, which will prohibit mass gatherings of more than ten (10) non-household members, and will mandate civil penalties for violation thereof.

**SECTION 2.** Regardless of whether an event or gathering falls within the definition of mass gathering, all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible and to continue to wash hands, utilize hand sanitizer and practice proper respiratory etiquette (coughing into elbow, etc.).

**SECTION 3.** 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: October 7, 2020  
Date



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

EFFECTIVE: October 7, 2020  
Date

ATTEST: Amy Wilkens  
Amy Wilkens  
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. \_\_\_\_\_, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON \_\_\_\_\_, 20\_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
AMY WILKENS  
CLERK OF COUNCIL  
(SEAL)

**CHAPTER 511 MASS GATHERINGS PROHIBITED DURING HEALTH EMERGENCY**

**511.01 PROHIBITION AGAINST MASS GATHERING; EXECPTIONS.**

(a) All individuals within the City of Kent are prohibited from hosting, maintaining or participating in mass gatherings in accordance with the following:

(1) "Mass gatherings" for purposes of this Ordinance, means any social gathering, event or convening that brings together greater than ten (10) non-household persons at the same time, to include both indoor and outdoor gatherings.

(2) "Non-household" for purposes of this Ordinance, means any individuals who do not reside within the same housing unit or dwelling.

(b) The mandatory prohibition on mass gatherings through this Ordinance does not apply in the following situations:

(1) Normal operations at bus stops or hubs, medical facilities, libraries, shopping malls and centers, or other spaces where more than ten (10) persons may be in transit.

(2) Typical office environments.

(3) Schools and University classes or officially sanctioned functions.

(4) Factories, warehouses and distribution centers.

(5) Retail, grocery stores, restaurants and bars where large numbers of people are present, but it is unusual for them to be within arm's length of one another.

(6) Athletic and sporting events, including recreational and club sports.

(c) Notwithstanding this Ordinance, buildings and venues that traditionally host mass gatherings, whether indoors or outdoors, may continue to be used for sanctioned community events.

(d) This Ordinance does not apply to and/or excludes members of the media.

(1) This Ordinance does not apply to and/or excludes religious gatherings, gatherings for the purpose of the expression of First Amendment protected speech, weddings and funerals.

**511.02 HEALTH DEPARTMENT CIVIL CITATION FINE.**

The civil fines for violations of Section Mass Gatherings Prohibited During COVID pandemic:

Initial Civil Fine  
(500)

If Delinquent  
(750)

If Sent for Collection  
(1000)

**511.03 NOTICE OF HEALTH DEPARTMENT CIVIL OFFENSE AND CIVIL FINE;  
PROCEDURES.**

- (a) The City of Kent Health Commissioner or his/her designee may issue a notice of civil offense and civil fine to a person found to have committed a civil offense.
- (b) A notice of a civil offense and civil fine must advise the person served:
- (1) Unless a written answer is filed or the civil fine paid within 10 days from the date of the notice, fine will double;
  - (2) That a hearing will be held if requested;
  - (3) That failure to appear at a requested hearing will be considered an admission of the civil offense;
  - (4) That all available collection remedies and costs of collection will be pursued in the event the civil fine and delinquent charges are not paid;
- (c) A notice of civil citation and civil fine:
- (1) Must state the date that the notice is issued;
  - (2) Must identify the person being charged if known to the issuing employee, or alternatively describe the vehicle, object or property that is the location or object giving rise to the civil citation;
  - (3) Must indicate the offense charged, the civil fine for the offense and the date, time and location of the offense charges;
  - (4) Must be signed and attested to by the issuing employee;
  - (5) If the person charged is present, the issuing officer or employee shall personally serve the person charged with a copy of the notice;
- (d) The following shall apply to all residential property to be used as rental property in the City of Kent:
- (1) Rental property owners shall designate an individual to be contacted by the City in the event of civil citation. This may be the property owner or a designated local agent; and,
  - (2) Rental property owners who desire to designate an agent must record the agent's telephone number and email (if any) with the City. If no agent is designated the rental property owner shall be the designated contact person.
- (e) The issuing employee must serve the notice of civil offense and civil fine in one of the following manners:

- (1) Notice may be served personally on the offender;
- (2) If the notice involves a civil citation which occurred on or immediately adjacent to the real property owned, occupied or controlled by the person being charged, the notice may be constructively served by posting a copy of the notice in a conspicuous location on the real property and by mailing a copy of the notice to said person by First Class U.S. Mail; or

#### **511.04 ANSWER TO NOTICE OF HEALTH DEPARTMENT CIVIL OFFENSE.**

A person served with a notice of a Health Department civil offense may file a request for a hearing. The request may be delivered in person or mailed to the City. A request for a hearing must be filed within ten (10) days from the date of the notice.

#### **511.05 HEARINGS.**

(a) A person who denies the commission of a Health Department civil offense may request a hearing before a hearing examiner. The request shall be filed with City Law Department, which shall set a date for the hearing and notify the person, in writing, of the date, time and location of the hearing. The hearing will be informal, but all testimony shall be under oath. The Law Director or his/her designee will act as the hearing examiner.

(b) All hearings shall be scheduled within ten (10) days and will be held at the next regularly scheduled hearing date not less than 10 days after the date scheduled. Any hearing date may be modified if such modification is requested by the person charged and approved by the hearing examiner. The request can be made at the onset of the hearing, or prior to the hearing by submitting a Request for Hearing Continuance to the Law Department.

(c) The hearing examiner shall enter into the record of the proceedings the notice of the Health Department 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.

(d) The hearing examiner shall issue a decision and make findings of fact from the record and conclusions of law in support of the decision at the conclusion 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 examiner's decision.

#### **511.06 DEFAULT.**

A person who is personally or constructively served with notice of a police or fire civil offense and civil fine and fails to answer within the time provided by this Chapter, or fails to attend a requested hearing, the person is in default, and the civil fine deemed delinquent. The amount due is as specified by this Chapter for the offense charged.

#### **511.07 CIVIL PROCEEDINGS.**

Whenever an officer charged with the enforcement of the Kent Codified Ordinances is satisfied that a provision that officer is charged to enforce, or a law in force in the City applicable to the same subject matter, has been violated or is about to be violated, or that an order or direction made in pursuance of the enforcement of this Chapter has not been complied with, or is being disregarded, and whenever that officer is satisfied that civil proceedings are necessary for the enforcement of the Kent Codified Ordinances or laws, to restrain violations thereof, that officer may apply to the Law Director, who is authorized to institute civil proceedings. Civil proceedings may be brought in the name of the City, and may include, among other things, claims for injunction, mandatory relief, restraining orders, damages, the appointment of a receiver, and such other relief as may be allowed in law or equity. Institution of civil proceedings does not exclude criminal proceedings as authorized by the Kent Codified Ordinances or charging a person with a civil offense as authorized by this Chapter.

#### **511.08 ADMINISTRATIVE REGULATIONS.**

The City Manager may adopt administrative regulations for the conduct of hearings and for the enforcement of the Kent Codified Ordinances through the issuance of notices of civil offenses.