

ORDINANCE NO. 2015- 80

AN ORDINANCE AMENDING THE DEFINITION SECTION OF CHAPTER 1103 AND CHAPTER 1122 OF THE KENT CODIFIED ORDINANCES TO ALLOW THE CLARIFICATION BETWEEN DIFFERENT SECTIONS CONCERNING RESIDENTS, GUESTS, HOUSEHOLD STATUS, ROOMING AND BOARDING HOUSES, OCCUPANCY, FAMILY, CAREGIVER, UNRELATED PERSONS, HOUSEHOLD UNIT, AND SPECIFICALLY CHANGING SECTIONS 1122.02, 1122.03, 1122.04, AND RENUMBERING THE SECTIONS ACCORDINGLY, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent wishes to amend Chapter 1103, the Definition section in order for clarification between different sections in the definitions of guests, occupancy, residents, family, caregiver, unrelated persons, household unit, rooming and boarding houses as they apply to residential properties and rooming and boarding houses; and

WHEREAS, the City of Kent wishes to amend Chapter 1122, in order for clarification between different sections concerning guests, residents, rooming and boarding houses and specifically changing Sections 1122.02, 1122.03, 1122.04, and renumbering the sections accordingly; and

WHEREAS, the required public hearing on the changes were held in a timely manner.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least a majority of all members elected thereto concurring:

SECTION 1. The Council does hereby accept the amendments to the Definitions in Chapter 1103 of the Codified Ordinances of the City of Kent as shown on the Exhibit "A", attached hereto and made a part hereof.

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: 04/15/2015
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2015- 80 was duly enacted this 15th day of April, 2015, by the Council of the City of Kent, Ohio

CLERK OF COUNCIL

EXHIBIT "A"

CHAPTER 1103 DEFINITIONS

1103.03 DEFINITIONS

~~Boarding Houses and Rooming Houses (Including Lodging Houses): See Chapter 1122.~~

A dwelling unit housing three (3) to fifteen (15) unrelated persons including the owner(s) of the dwelling unit who utilizes this dwelling unit as their primary residence.

Caregiver: An unrelated person who provides medical or personal care to an elderly person, a person with a recognized disability, or a juvenile, without which the recipient of said care would not be able to live independently.

Family: ~~See Chapter 1122.~~ Individuals who are related by marriage, legally recognized civil union, adoption, or who are within three (3) degrees (or fewer) of consanguinity. See attached Table of Consanguinity.

Guest: A person, who does not meet the definition of a resident, temporarily staying in a dwelling unit with the consent of a member of the household, who has express or implied authority to so consent.

Household Unit: ~~See Chapter 1122.~~ A family, a family and one unrelated person, a single person, two unrelated persons, or any of these four designations and a caregiver(s) (as these terms are defined by the City of Kent Zoning Ordinance) residing in a dwelling unit. Persons residing in a rooming house, boarding house, hotel, group dwelling, fraternity, or sorority house, together, do not constitute a household unit.

Occupancy: ~~The residing of an individual(s) overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery on the premises or in any public, commercial or industrial building.~~

Resident: A person staying overnight in a dwelling unit for more than fourteen (14) consecutive days or a total of thirty (30) cumulative calendar days during any twelve (12) month period.

Rooming House: A dwelling unit housing three (3) to fifteen (15) unrelated persons.

Temporary Structure: ~~A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased. The time limit or all temporary structures shall be limited to no longer than a seven (7) calendar day period. This provision does not pertain to include the provisions addressing temporary signage, which is herein separately defined.~~ **A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. The time limit of all temporary structures shall be limited to no more than fourteen (14) days (regardless of whether the days are consecutive or not) over ANY sixty (60) consecutive day calendar period. This provision does not pertain to include the provisions addressing temporary signage, which is herein separately defined.**

Unrelated Persons: Individuals who do not meet the definition of family or household unit.

**CHAPTER 1122
ROOMING AND BOARDING HOUSES**

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|---------|------------------------------|---------|--------------------------|
| 1122.01 | Purpose | 1122.02 | Rooming & Boarding House |
| 1122.03 | Household | 1122.04 | Determination of Status |
| 1122.05 | Legality of Established Use | 1122.06 | Zoning Districts |
| 1122.07 | Lot Dimensional Requirements | 1122.08 | Parking Requirements |
| 1122.09 | Expansion of Existing Uses | 1122.10 | Compliance |

1122.01 PURPOSE

The purpose of this Chapter is to define and regulate rooming and boarding house operations within the City of Kent in relation to zoning requirements. There may be additional requirements for such uses not listed here that are applicable in their own right, such as the requirements spelled out in the City's Environmental Housing Code.

~~**1122.02 DEFINITION OF ROOMING AND BOARDING HOUSE**~~

~~A Rooming and Boarding House is one or more physical dwelling units within a single building and/or multiple buildings where three (3) or more persons are living but such persons are unrelated or are not living together as a household. The maximum number of persons permitted to live in a rooming and boarding house shall not exceed fifteen (15) people.~~

Definition section moved to Chapter 1103 and renumber.

~~**1122.03 1122.02 DEFINITION OF HOUSEHOLD ADDITIONAL REGULATIONS**~~

~~A Household is where one or more persons occupy a dwelling as a functional unit. A functional unit is either a family where one or more persons is related to each other by blood, adoption or marriage; or where two or more persons whose relationship is functionally equivalent to a family but who are not related by blood, adoption or marriage. Persons occupying a rooming and boarding house, hotel, group dwelling, fraternity or sorority house do not constitute a household. The standards for determining whether a group of unrelated persons living together constitutes a household are set forth in Section 1122.04 of this Chapter.~~

- (A) The determination of whether a group of individuals meet the definition of a Household Unit shall be made by the Community Development Director. This decision may be appealed to the Board of Zoning Appeals in accordance with KCO 1109.09.
- (B) Neither a Rooming House nor a Boarding House may have more tenants than legal bedrooms as defined in Section 1415.04 of the City of Kent Property Maintenance, Housing and Enforcement Code.
- (C) Any group of persons meeting one of the designations of a Household Unit as defined in the City of Kent Zoning Ordinance is permitted to reside in a single-family dwelling.
- (D) An individual can be a resident at more than one location.

~~**1122.04 DETERMINATION OF HOUSEHOLD STATUS**~~

~~For the purposes of enforcement of the zoning code, as well as any other references within the Kent Codified Ordinances, the following standards shall be used in order to make a determination of whether a specified group of persons constitutes a household by virtue of being the functional equivalent of a family.~~

~~The determination by the City that a group of specified persons living together as the functional equivalent of a family may be transferrable with the same exact group of individuals to another dwelling unit. Any such designation, does not however run with the property when the property is occupied by a different household or group of individuals.~~

~~a) Responsibilities — It shall be the responsibility of the property owner to provide information / evidence as may be required by the City as defined herein to document that a household meets the~~

functional equivalency test as a family. The City through its enforcement of the zoning code, shall have the final determination in deciding whether the functional equivalency test is met.

~~b) Appeals—Whenever the City makes a determination or decision regarding the functional equivalency of a family as part of the enforcement of the Zoning Code or any other portion of the Codified Ordinances of the City, the decision may be appealed to the Board of Zoning Appeals. The Board of Zoning Appeals shall treat such an appeal in accordance with the process specified for appeals as defined in Chapter 1109. The Board may overrule, modify or uphold the decision regarding functional equivalency only where there is evidence in the record that there was an error or omission in the original decision. The following parties have the right to appeal a decision regarding functional equivalency:~~

- ~~1) Any member of the group proposed as a household;~~
- ~~2) The Owner of the premises occupied by such group; or~~
- ~~3) Any other person that can demonstrate that they have been aggrieved by the initial decision.~~

~~c) Factors—The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be presented during the enforcement investigation by the City. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family.~~

- ~~1) The following factors shall be prima facie evidence that the group of persons living together constitutes a household:
A. The same group of persons, or a majority of them, has resided together at a different location for a period of no less than six (6) months, or resided together at the present location for at least twelve (12) months; AND
B. One or two members of the group have executed the lease for the entire premises, including the entire rental obligation, and there are no sub-lease, hold harmless or other arrangements to pro-rate the rent or recover the rent from other members of the group.~~
- ~~2) The following factors shall be prima facie evidence that the group of persons does not constitute a household:
A. Individual members of the group have entered into separate leases for the same premises or parts thereof, with the obligation under each lease constituting only a portion of the total periodic rent payment due to the landlord for occupancy of the premises; AND
B. The premises are furnished with key-operated locks on individual rooms or with other means through which one member of the group may prevent other members of the group from entering his/her room or portion of the premises when he/she is not physically present (deadbolts, chains or other locking devices operated only from the inside of the room shall not be considered as evidence of the status of the group.~~
- ~~3) The following additional factors shall be considered, to the extent known or applicable, in determining whether the group of persons constitutes a household:
A. Voter registration by a majority of the eligible members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Voter registration listing other addresses by a majority of the adult members of the group, or by a majority of those actually registered to vote shall be considered evidence negating the proposition that the group is a household.
B. Drivers licenses held by a majority of the adult members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Driver's licenses listing other addresses by a majority of the adult members of the group, or by a majority of those actually holding such licenses shall be considered evidence negating the proposition that the group is a household.~~

~~C. The registration of motor vehicles regularly found at the dwelling listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household.~~

~~The regular presence at the dwelling of one or more motor vehicles belonging to members of the group and registered at one or more other addresses shall be considered evidence negating the proposition that the group is a household.~~

~~D. The filing of tax returns by a majority of the members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The filing of tax returns listing other addresses by members of the group shall be considered evidence negating the proposition that the group is a household. Evidence that one or more individuals are claimed as dependents on the income tax return of individuals not resident in the household shall be considered evidence that the group is not a household.~~

~~E. The presence of minor dependent children regularly residing in the dwelling unit and enrolled in local schools with one or more members of the group acting in the role of parents (and primary care givers) shall be considered a factor tending to support the proposition that the group is a household.~~

~~F. Evidence that different residents of the dwelling unit are away during the summer and that they have several as opposed to a single summer address shall be considered evidence negating the proposition that the group is a household.~~

~~G. Evidence of common acquisition and ownership of furniture and appliances shall be considered evidence in support of the proposition that the group is a household.~~

~~H. Full-time employment of some members of the group in the general community shall be considered evidence in support of the proposition that the group is a household.~~

~~I. Evidence that groceries are purchased and meals regularly prepared for the group as a whole shall be considered evidence in support of the proposition that the group is a household. For purposes of this factor, weekly joint purchases of groceries and the preparation and sharing of at least seven meals per week shall be considered "regularly prepared."~~

~~d) Evidence In making the determination of whether the group constitutes a household, the decision shall be made based on the preponderance of the evidence available. Where there is prima facie evidence supporting only one side of the proposition, the City shall make a determination that is supported by the prima facie evidence, unless compelling evidence is presented supporting the other side of the proposition. In the case of the latter, the compelling evidence should be supported by at least four of the factors listed in 1122.04(c)(3) above.~~

~~e) Handicap / Disability Living arrangements for persons with an "Handicap" or "Disability" as those terms are defined by local, State or Federal law, will be presumed to be a household.~~

~~1122.05~~ 1122.03

LEGALITY OF ESTABLISHED USE

The legality of the use of a property being used as a Rooming and Boarding House should be established in one of the two following ways:

a) The issuance of a zoning permit by the City of Kent indicating that the property is approved as a rooming and boarding house; or

b) The issuance of a Certificate of Nonconforming Use by the City of Kent in accordance with Chapter 1169 (Nonconforming Uses) of the Kent Zoning Code and any other applicable section of the Kent Zoning Code. The mere existence of a use, without proper documentation as described herein, does not establish the legality of the use by itself.

1122.06 1122.04

ZONING DISTRICTS

Other than in those cases where the legal, nonconformity is established through Chapter 1169 of the Kent Zoning Code, all new Rooming and Boarding house uses must be located in zoning districts which permit them and which have obtained all necessary approvals through the Planning Commission, Board of Zoning Appeals or other local requirements as applicable. Please refer to the listing or permitted or conditionally permitted uses in a given zoning district to determine whether the use is allowed.

1122.07 1122.05

LOT, BUILDING AND DIMENSIONAL REQUIREMENTS

Lot and dimensional requirements for rooming and boarding houses are stipulated for providing adequate lot size, open area and room for parking. Even though the dimensional requirements stipulated in this section are the minimum necessary for a rooming house, the Planning Commission when reviewing requests for new rooming houses, shall determine that the size of the property is adequate to provide reasonable open area and room for parking as required by Section 1122.08.

In reviewing such new requests, the Planning Commission may approve the proposed rooming and boarding house as presented, or may modify or reduce the number of persons permitted to reside in the house if they make a determination that the size of the lot and area allowed for parking is not adequate. Any expansion of existing, legal rooming houses shall be reviewed using the same criteria.

a) Minimum Lot Size – The minimum lot size for a rooming and boarding house shall be no less than 10,000 square feet. The Planning Commission may require a larger lot area based on the need to accommodate tenants and parking. The amount of lot area required shall not be unreasonable or overly restrictive.

b) Setbacks, Lot Width, Frontage – The setbacks, lot width and frontage for a new or expanded rooming and boarding house shall be those specified in the Kent Zoning Code for single family units in the zoning district in which the property is located. Substandard lot requirements pertaining to setback, lot width and frontage shall not be used to determine compliance with this subsection.

c) Open Space – While there shall be no specific requirement in regard to the amount or size of open space on a lot housing a new or expanded rooming and boarding house, the applicant for such use shall demonstrate to the reasonable satisfaction of the Planning Commission that some open area or recreational space is provided for the residents of the facility that is separate from parking areas. Front yard areas shall not be used for the purpose of providing such open space. The Planning Commission may take into account the availability of nearby public parks or public recreation areas as a partial or full substitute for on-site recreational space.

d) Maximum Building Height – The maximum building height of a structure housing a rooming and boarding house shall be the same as the maximum building height stipulated for the zoning district in which the property housing the use is located.

1122.08 1122.06

PARKING REQUIREMENTS

All new and expanded rooming and boarding houses shall provide adequate parking to their tenants based on the following:

a) Location – Parking areas shall be located in rear yards and are prohibited in the required front and side yard building setbacks as applicable to the zoning district in which the property is located. Parking may be permitted in the required side yard setbacks up to within five (5) feet of the side property line as long as the applicant can demonstrate to the satisfaction of the Planning Commission that such proximity will not negatively impact the abutting property.

Number of Spaces – Unless otherwise permitted, all of the parking spaces shall be located on the subject property. Minimum parking shall be provided as follows:

0-15 residents on the parcel = 1.25 parking spaces per bed.

16-20 residents on the parcel = 20 parking spaces

21-24 residents on the parcel = 1 parking space per bed

25+ residents on the parcel = 0.80 parking spaces per bed

c) Off-Site Parking – Off-site parking, including parking on a public street, may not be used for meeting the minimum parking requirements as set forth in this Chapter, unless the applicant can adequately demonstrate to the Planning Commission that they have exclusive permission from an adjoining property owner to use “excess” spaces available on the adjoining property. “Excess” spaces are spaces not needed to meet the parking requirements for the use occupying the adjoining property and/or not allocated to the

exclusive use of another property. Not more than sixty (60) percent of the actual rear yard area shall be occupied by the parking area and driveway.

d) Surfacing and Drainage – Parking provided on site shall be paved using concrete or asphalt, however the parking may be installed using a gravel surface if the gravel is contained with an adequate barrier that prevents it from being spread outside of the approved parking area. Adequate storm drainage shall be provided in accordance with applicable sections of the Kent Codified Ordinances. In paved lots, the parking spaces shall be striped to the proper dimension. In gravel lots, parking wheel stops or marked railroad ties shall delineate the parking space locations. Where gravel parking is used, drive aprons must be installed in accordance with City standards and the first twenty (20) feet of the driveway back from the street must be paved.

e) Size and Layout of Parking Spaces – Parking spaces shall be no less than nine (9) feet wide and eighteen feet (18) deep. Parallel parking spaces shall be adequately sized in accordance with accepted design practice. Drive aisles shall be adequately sized to permit the unobstructed movement of vehicles in and out of the site. Parking areas should be designed, to the extent feasible, in a way that allows cars to pull forward out of the driveway into the street rather than having to back out into the street. Driveway areas may not be counted as parking spaces unless the driveway is of adequate dimension to allow for the separation of parked cars and cars moving in and out of the site.

f) Landscaping - Landscaping shall be provided around the perimeter of parking areas to the degree practical and possible and shall be fully contained on the property housing the rooming and boarding house use. In areas where parking is immediately adjacent to a residential structure on an adjoining property, landscaping shall be provided in a manner so as to provide adequate screening from car lights and outdoor activity areas.

~~1122.09~~ 1122.07 **EXPANSION OF EXISTING USES**

Whenever an existing Rooming and Boarding house is to be expanded, either in size, occupancy and/or on-site parking, it shall be subject to review for compliance with the current standards set forth in this Chapter and shall be subject to the following:

a) Legal, Nonconforming Uses - When such expansion involves rooming and boarding houses which exist as legal, nonconforming uses, the proposed expansion shall be subject to the requirements of Chapter 1169 of the zoning code as well as the standards set forth in this Chapter.

b) Permitted and Conditionally Permitted Uses – When such expansion involves rooming and boarding houses that are currently operate as permitted or conditionally permitted uses, the provisions of this Chapter shall apply to any expansion.

~~1122.10~~ 1122.08 **COMPLIANCE WITH OTHER REQUIREMENTS**

All rooming and boarding houses shall comply with any current or future licensing requirements required by the City, County or State of Ohio. All rooming houses shall comply with all applicable building code requirements and in cases where such uses involve four (4) or more unrelated individuals, the City of Kent Environmental Housing Code requirements.