

EMERGENCY BILL NO. 20-07
Hearing Date: 11/23/2020

CITY OF NEWARK
DELAWARE

EMERGENCY ORDINANCE NO. 20-07

An Emergency Ordinance Concerning COVID-19 Precautionary Measures

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

WHEREAS, to meet a public emergency affecting life, health, property or the public peace, Article IV, Section 402.3 of the Charter of the City of Newark authorizes Council to adopt emergency ordinances that may be adopted with or without amendment at the meeting at which it is introduced by the affirmative vote of at least five (5) members of Council; and

WHEREAS, Article IV, Section 402.3 provides that any such emergency ordinance may become effective immediately upon adoption and shall automatically stand repealed as of the sixty first (61st) day following the date on which it was adopted, unless extended by regular ordinance action by Council; and

WHEREAS, the President of the United States of America has declared a National State of Emergency due to the public health threat caused by the coronavirus disease (“COVID-19”); and

WHEREAS, Governor John C. Carney has declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19; and

WHEREAS, on October 30th, 2020, Governor Carney most recently extended the State of Emergency for thirty (30) days, effective immediately; and

WHEREAS, the Centers for Disease Control and Prevention has determined that COVID-19 presents a serious threat; and

WHEREAS, Council has determined a State of Emergency due to COVID-19 exists in the City of Newark, and has further determined it is in the best interests of the State of Delaware and the citizens of Newark to protect them from a potential public health emergency that could threaten the lives of those that live and work in the City of Newark by continuing to take appropriate action to avoid transmission of the disease by limiting social contact of persons within Newark; and

WHEREAS, in order to limit social contact upon persons within Newark, on March 16, 2020 Council adopted Emergency Ordinance No. 20-01, which limited social gatherings to ten (10) persons, and limited restaurants, taverns and bars within the City of Newark to providing food and beverage service through take-out, drive through and off premises delivery; and

WHEREAS, in May of 2020, Governor Carney commenced steps for the gradual reopening of Delaware, and in conjunction with this, Council did repeal the restrictions set forth in Emergency Ordinance No. 20-01; and

WHEREAS, implementation of Governor Carney's reopening plan is contingent upon key COVID-19 indicators trending downward; and

WHEREAS, on August 24, 2020, in conjunction with the commencement of the University of Delaware fall semester, Council took additional steps to so as to avoid a surge in cases similar to what is had occurred within numerous other college towns throughout the nation due to social distancing protocols not being followed; and

WHEREAS, in order to limit social contact upon persons within Newark, on August 24, 2020 Council adopted Emergency Ordinance No. 20-06, which, *inter alia*, a) prohibited indoor social gatherings of more than twelve (12) attendees, aged seventeen (17) and above, inside of a private residence; and b) prohibited outdoor social gatherings of more than twenty (20) attendees aged seventeen (17) and above at a private residence; and

WHEREAS, on September 28, 2020, after a first and second reading, Council adopted Ordinance No. 20-22, to permanently codify the provisions of Emergency Ordinance 20-06 until such time as the modified State of Emergency is lifted by Governor Carney, or when, for three (3) consecutive weeks a Rating of 1 is achieved in all three categories of the State of Delaware School Reopening Criteria, which are new cases, percent of persons tested positive, and average daily hospitalization from COVID-19; and

WHEREAS, in response to the massive surge in COVID-19 infections over the past several weeks, Governor Carney has announced further COVID-19 restrictions, effective November 23, 2020, including prohibiting indoor gatherings in homes of more than ten (10) people of all ages, and outdoor public gatherings of more than fifty (50) people of all ages; and

WHEREAS, Council has determined that it is in the best interests of the Citizens of Newark that it also should further limit indoor gatherings in homes to having no more than ten (10) people of all ages; but maintain its current restriction on outdoor gatherings at private residences to having no more than twenty people over the age of seventeen (17).

That Chapter 22, Police Offenses, Code of the City of Newark, Delaware, be Amended in the Following Respects by with regard to Unlawful Social Gathering in or at a Private Residence During the COVID-19 State of Emergency:

Effective immediately:

AMENDMENT 1:

Amend Section 22-74.4, Unlawful Social Gathering in or at a Private Residence During the COVID-19 State of Emergency, by deleting the stricken text and adding the underscored text as follows in subsections B, E, F and G:

“Sec. 22-74.4 – Unlawful Social Gathering in or at a Private Residence During the COVID-19 State of Emergency.

- A. An indoor social gathering...
- B. Unlawful indoor social gathering in a private residence: ~~Unless a permit allowing more attendees at an indoor social gathering has been issued by the City Manager or his designee, a~~ All indoor social gatherings at any private residence within the City of Newark shall be strictly limited to no more than ~~twelve (12)~~ ten (10) attendees of all ages, including residents of the premises.
- C. An outdoor social gathering...
- D. Unlawful outdoor social gathering at a private residence...
- E. A violation of Section 22-74.4 (b) will occur if there are more than ~~twelve (12)~~ ten (10) attendees that are inside of the premises at an outdoor social gathering ~~unless otherwise permitted by the City Manager;~~
- F. The City Manager or his designee is hereby authorized to consider and approve applications for ~~indoor social gatherings of more than twelve (12) attendees, and for outdoor social gatherings of more than twenty (20) attendees~~ up to a maximum of 50. Permits for outdoor social gatherings of more than 50 up to a maximum of 250 attendees requires a permit from the Delaware Department of Public Health.
- G. Exemptions: ~~For outdoor social gatherings, p~~Persons aged sixteen (16) and younger are exempt from this ordinance and shall not be included when counting attendees.
- H. Civil Penalties ...
 - (1) For a first offense, ...
 - (2) For a second offense, ...
- I. Criminal Penalty ...
 - (1) Any third offense and each subsequent offense ...
- J. If any clause....

- K. Nothing in this section...
- L. Information concerning a civil offense
- M. The entire period of community service
- N. Unless otherwise specified herein....
- O. For first and second violations of this section...
- P. Any person cited under this section”

AMENDMENT 2:

As long as this Ordinance remains in effect, the provisions in Sections 23-14 through 23-20, as apply to private social gatherings in or at private residences within the City of Newark shall be suspended.

AMENDMENT 3:

This Emergency Ordinance shall sunset upon the earlier of the following dates: 1) as of the sixty first (61st) day following the date on which this Emergency Ordinance was adopted; or 2) upon the date Governor Carney declares the State of Emergency has ended. It is the intent of the Council of the City of Newark, Delaware that if this Emergency Ordinance sunsets after the sixty first (61st) day following the date on which this Emergency Ordinance was adopted, this section shall revert to the Code language as previously adopted in Ordinance No. 20-22 with all relevant sunset provisions in place.

The City Secretary is directed to provide notification of this Emergency Ordinance to all media outlets and to the University of Delaware. Amendment 1 shall be enforced by the City of Newark Police Department.

Hearing and Date of Passage: November 23, 2020

VOTE: 7 to 0.



Mayor

Attest:



City Secretary

Approved as to Legality and Form:

A handwritten signature in blue ink, appearing to read "P. E. Bill".

City Solicitor