

ORDINANCE NO. 2021-¹⁴
(Amending Restated Ordinance No. 2020-38)

AN ORDINANCE TO AMEND THE COVID-19 MITIGATION DIRECTIVES
ORDINANCE TO EMPHASIZE EDUCATION

WHEREAS Indiana Code § 36-1-3-1 et seq. permits any unit in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its governmental or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS Indiana Code § 36-8-2-1 et seq. permits for the preservation of public safety and health, among other things, any unit in the State of Indiana to (1) regulate use of property to protect public health; (2) impose restrictions upon persons that might cause others to contract diseases; (3) regulate public gatherings; and (4) regulate the operations of businesses and entities;

WHEREAS Elkhart County businesses and community members have been diligent in their efforts to independently implement the COVID-19 mitigation directives established by Governor Holcomb and confirmed by Public Health Order 06-2020;

WHEREAS Elkhart County businesses and entities that have been reported for alleged violations have appropriately responded to the education offered by Elkhart County and have implemented corrective actions to address the alleged violations;

WHEREAS Elkhart County has not needed to issue any Citation Orders or levy any civil fines as a result of violations of Restated Ordinance No. 2020-38; and

WHEREAS the Board of Commissioners of the County of Elkhart has determined that while the mitigation directives required by Governor Holcomb's executive orders and Public Health Orders 05-2020 and 06-2020 must be followed, the level of oversight, specifically the issuance of fines, established by Restated Ordinance No. 2020-38 is no longer necessary.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED by the Board of Commissioners of the County of Elkhart as follows:

1. Amendment of Section 5 of Restated Ordinance No. 2020-38. Section 5 of Restated Ordinance No. 2020-38 is hereby repealed and replaced with the following:

5. Incremental Enforcement Procedures. To the extent an individual authorized to enforce this Ordinance initiates enforcement measures, they must comply with the following incremental enforcement steps:

a. **First Violation.** Issue a verbal notice of violation — to educate and encourage — by identifying any noncompliance and required action steps for compliance. Assist the business or entity with developing better mitigation practices.

b. **Subsequent Violations:** Issue a written notice of violation — to educate and encourage — by completing the COVID-19 Inspection Assessment attached hereto as Exhibit 1 and providing, to the inspected business or entity, a copy, showing any noncompliance and required action steps for compliance. Continue to assist the business or entity with developing better mitigation practices.

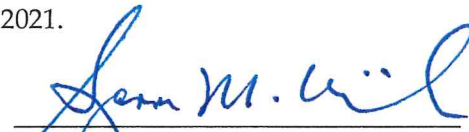
Every individual completing a COVID-19 Inspection Assessment must retain a copy for the period of time required by Indiana law.

2. Amendment of Section 6 of Restated Ordinance No. 2020-38. Section 6 of Restated Ordinance No. 2020-38 is hereby amended by replacing the word “penalties” with “education.”

3. Deletion of Exhibit 2 from Restated Ordinance No. 2020-38. The Citation Order attached as Exhibit 2 to the Restated Ordinance No. 2020-38 is hereby repealed and of no further force or effect.

4. Amendatory Effect. Except as amended herein, all of the terms and provisions of Restated Ordinance No. 2020-38, will remain in full force and effect. This Ordinance is effective as of 12:01 am March 9, 2021.

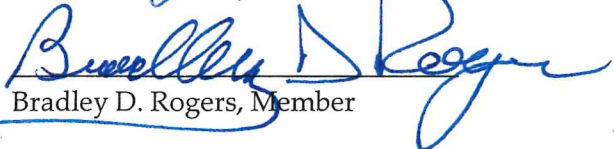
ORDAINED AND ADOPTED on March 8, 2021.



Suzanne M. Weirick, President

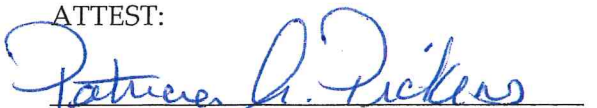


Frank R. Lucchese, Vice-President



Bradley D. Rogers, Member

ATTEST:



Patricia A. Pickens, Elkhart County Auditor