

STANDING RULES
KENT CITY COUNCIL (*Draft as of April 10, 2017*)
(ADOPTED JANUARY 22, 1986; LAST REVISED JANUARY 6, 2016)

I. INTRODUCTION

The Kent City Charter, Kent Codified Ordinances, and the Ohio Revised Code, the Ohio Sunshine Laws Open Meetings Act, and the current edition of Robert Rules of Order govern meeting requirements and actions of the Kent City Council.

II. ORGANIZATION OF COUNCIL

In accordance with Section 5.10 of the Kent City Charter, Kent City Council shall meet at 7:30 p.m. on the first Wednesday in January of each ~~even-numbered~~ even-numbered year, unless any such Wednesday falls on January 1st in which case this provision shall apply to the second Wednesday in January of such year. The primary purpose of this meeting is for the purpose of organizing the Council.

III. STANDING RULES

The ~~s~~Standing ~~R~~Rules of the Kent City Council shall be reviewed at the ~~e~~Organizational ~~m~~Meeting of Council, as described in the preceding paragraph. The existing rules or new rules shall be adopted by a vote of the majority (5) of elected members.

A. AMENDMENTS OF RULES

These rules may be amended by a vote of the majority (5) of elected members.

B. SUSPENSION OF STANDING RULES

At any time, Kent City Council has the right to suspend these rules of order and procedure by a super majority (7) vote of the elected members.

C. REPEAL OF FORMER RULES

All former rules of order and procedure of the Kent City Council shall be and the same are hereby repealed and these rules shall take effect and be in force from and after their adoption.

IV. ROLE OF COUNCIL

A. POLICY

The Kent City Council is elected to set and monitor the implementation of policy for the city City of Kent. The Council shall endeavor to execute all ordinances, resolutions, motions, and actions necessary for the governance of policy. The Council shall meet regularly in various formats to provide thorough public participation in the policy making process. They shall hire a City Manager, in accordance with Section 6.01 of the Kent City Council, to implement policies of the City. The Council shall hire a Clerk of Council, in accordance with Section 5.09 of the Kent City Council, to facilitate the work of Council.

B. GOAL SETTING

The Kent City Council shall administer a regular process to prioritize the goals of the City. This process shall be done separately, and/or in conjunction with the City Manager and heads of all City Departments.

C. COUNCIL AUTHORITY

No one Councilperson shall have the authority to set policy, to determine a given course of action or to speak on behalf of the Council without the majority consent and approval of the same. All actions on behalf of Council committees must receive a majority vote.

V. ROLE OF MAYOR.

On October 27, 1995, a legal opinion of the City Law Director was rendered regarding the role of the Mayor/President of Council at Council meetings and is on file in the City Council office. A summary of that ruling is hereby incorporated as a part of these rules:

A. At meetings of the Kent City Council, the Mayor of the City has the right to:

1. Have a voice and vote in Council proceedings on an issue only in the event of a tie in the

approval or disapproval of ordinances or resolutions of the City Council. Conversely, the Mayor shall not voice opinions or give comments on issues unless there is a tie vote by the Council.

2. Preside at all meetings of Council, which includes the following from Roberts Rules of Order, Newly Revised, and including any future amendments to Robert's Rules of Order, on the duties of a presiding officer:
 - a. To open the meeting at the appointed time by taking the chair and calling the meeting to order, having ascertained that a quorum is present.
 - b. To announce in proper sequence the business that comes before the assembly or becomes in order in accordance with the prescribed order of business, agenda, or program, and with existing orders of the day.
 - c. To recognize members who are entitled to the floor.
 - d. To state and to put to vote all questions that legitimately come before the assembly as motions or that otherwise arise in the course of proceedings, ~~and~~ and to announce the result of each vote; ~~or~~ or, if a motion that is not in order is made, to rule it out of order.
 - e. To protect the assembly from obviously frivolous or dilatory motions by refusing to recognize them.
 - f. To enforce the rules relating to debate and those relating to order and decorum within the assembly.
 - g. To expedite business in every way compatible with the rights of members.
 - h. To decide all questions of order, subject to appeal unless, when in doubt, the presiding officer prefers initially to submit such a question to the assembly for decision.
 - i. To respond to inquiries of members relating to parliamentary procedure or factual information bearing on the business of the assembly.
 - j. To authenticate by his or her signature, when necessary, all acts, order and proceedings of the assembly.
 - k. To declare the meeting adjourned when the assembly so votes or where applicable at the time prescribed in the program, or any time in the event of a sudden emergency affecting the safety of those present. Roberts Rules of Order, Newly Revised, Page 441-442.

VI. TYPES OF MEETINGS

The Kent City Council shall meet in the following formats:

- A. Regular
- B. Committee
- C. Public Hearings
- D. Special
- E. Work Sessions

VII. MEETING REQUIREMENTS

A. MEETING LOCATION

In accordance with the Kent City Charter, all meetings of the Kent City Council, including City ~~b~~Boards, and ~~e~~Commissions, shall be within the city City corporation limits in facilities that will allow the free flow of information to the public. Approved exceptions to this requirement include declared disasters necessitating locations outside of the city City for public safety reasons; joint meetings with other public legislative bodies; and meetings in which no city City business is discussed and is intended for educational or recreational purposes only. All meetings of the Council shall be held in the in the Fire Department Training Room, until further notice, unless otherwise approved by a majority vote of the Council.

B. OPEN MEETINGS

The Open Meetings Act requires public bodies to provide openness, notice and minutes. All meetings of the Council, or committees thereof, shall be public to conform to the Ohio Sunshine Laws ~~of the State of Ohio~~. All minutes and records of the Council shall be open to the public at all

reasonable times.

C. TYPES OF MEETINGS

1. REGULAR MEETINGS

After the Council has been organized, regular meetings shall be held in the Fire Department Training Room, until further notice, on the third Wednesday of each month at 7:30 p.m., unless otherwise ordered by motion, resolution, or ordinance. Alterations may be made to the number of meetings by a majority vote of Council, provided the Council has a minimum of one regular meeting monthly. No new items of business will be entertained after 10:00 p.m. unless authorized by a majority vote of the members present.

2. COMMITTEE MEETINGS

Committee meetings of the Kent City Council shall be in the Fire Department Training Room, until further notice, on the first Wednesday of each month. The second Wednesday of the month shall be reserved for Committee meetings, if needed. These meetings shall begin at 7:00 p.m. Meetings may be called on nights other than those listed by a majority vote of Council.

3. EMERGENCY, SPECIAL MEETINGS AND BOARD OF CONTROL

a. SPECIAL COUNCIL MEETINGS

Special Council meetings may be called at any time by the Mayor/President of Council, or any three Council members. (See Codified Ordinances of the City of Kent, Sections 107.04 and 107.05). Notice shall be given to the news media 24 hours in advance of a special meeting. At least twelve hours' notice shall be given to each member of Council, by telephone or served personally on each member or left at their usual place of residence; provided, however, that no such notice need be served on any Council member present at a meeting of Council at which the Mayor/President of Council may give oral notice of the time and purpose of a special meeting. Any such notice shall state the subjects to be considered at the special meeting and no other subjects shall be considered.

b. EMERGENCY MEETINGS

In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notice thereof to the requesting news media. The person calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person giving such notice determines, of the time, place and purpose of such special meeting to the news media that have requested such advance notice. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.

c. BOARD OF CONTROL

The City of Kent's Board of Control may be called as needed by the City Manager, with proper notification to Council and the media.

4. PUBLIC HEARINGS

The time and place of Public Hearings shall be determined by Council and posted conspicuously by the Clerk on a bulletin board at the Service Administration Complex, 930 Overholt Road, Kent, OH. Public Hearings shall be convened and presided over by the President of Council. **Public Hearings shall be limited to comments from the public only.**

5. EXECUTIVE SESSIONS

All meeting of the Kent City Council shall be held in open session, except those meetings that may be closed for those purposes specified in the Ohio Revised Code §121.22. **These purposes include the employment and dismissal of public employees, the performance evaluation of Council's employees, labor negotiations, real property transactions, and consulting with legal counsel on pending or threatened litigation.** Any regular meeting,

special meeting or committee meeting may be recessed for an executive session. The motion must include the specific provision of the law authorizing the session, and include a roll call vote.

The Mayor and all members of Council shall maintain the confidentiality of the information discussed in executive sessions.

D. AGENDA

It shall be the duty of the Clerk to post the agenda on a bulletin board at the Service Administration Complex, 930 Overholt Road, Kent, OH, in accordance with the Ohio Sunshine Law, at least 48 hours prior to each Regular Meeting, with a listing of measures to be voted on at the meeting. The agenda shall be posted on the city City's website, www.kentohio.org, as a courtesy to the public, allowing for exceptions for those times when the website may not be operational.

E. MINUTES

~~Written m~~ Minutes shall be taken for all Council and committee meetings in accordance with the Ohio Revised Code and Ohio Sunshine Laws. The minutes must give a true reflection of the matters discussed and are to be transcribed within a reasonable amount of time. Minutes are not required to be a verbatim transcript of the proceedings, but must include enough facts and information to permit the public to understand and appreciate the rationale behind Council's decisions. Both the draft version and final version of the official minutes approved by members of Council are a public record.

Members of the audience are encouraged to and may submit their pre-prepared statements and/or comments to the Clerk of Council in writing for inclusion as an "attachment" to the minutes.

F. COUNCIL MEMBER COMMENTS

Each Councilperson shall be recognized for a three (3) minute period to speak initially on a given issue, and shall be recognized for one (1) minute periods for subsequent rebuttals. The maker of a motion shall be recognized first, followed by the seconder of the motion. All remaining Councilpersons shall have an opportunity to speak to the motion before the proponent addresses the motion again.

At the end of each regular Council meeting, all Council members will have an opportunity to make comments. Comments by Council members shall observe decorum in words and action befitting of a member of the leadership. The image of the entire Council and the confidence and respect of the community is enhanced by such behavior. All council persons should act in a dignified and respectful manner not only during council comments but at all times. Insinuations about unethical behavior, personal attacks and insults, and loud and demonstrative conduct are out of place and demeaning to our Council, staff and citizenry.

The three-minute limit may be extended if requested by a majority of Council before the commencement of the comments.

G. PUBLIC COMMENT

In an effort to encourage public participation in policy discussions, the Council shall allow members of the public three (3) minutes to address the council. Persons speaking shall address issues, not persons, respecting the office being addressed and the decorum of the meeting. ~~Vulgar or foul language and remarks aimed to embarrass or humiliate are always out of order.~~

All members of the public must address Council by: signing in with the Clerk of Council prior to the start of the meeting; using the microphone and/or podium; clearly stating their name and address for the record; facing Council not the audience or TV camera during their three (3) minutes of comments; and refrain from prohibited conduct***.

Rule G (1) (a), (b) (c), (d) titled "Audience Participation" and Rule G (2) (a)(b) "Prohibited Conduct" will be placed for public viewing with the Clerk of Council on a separate sheet next to the sign-in sheet at each meeting. Each audience member who so addresses Council must adhere to the

following:

(1) Audience Participation:

(a) Procedure. Any member of the general public who wishes to address the City during a regularly scheduled Council meeting and Council Committee Meetings must sign-in with the Clerk of Council prior to the start of the meeting. During the "Audience" portion of the meeting, Audience members must first be recognized by the Mayor, called upon by the Clerk of Council from the sign-in sheet, address Council from the podium/microphone stand, clearly state his/her name and address into the microphone for the record, and limit his/her comments to three (3) minutes. Comments may address one or more topics, to a total of three (3) minutes in length unless otherwise specifically authorized by the Mayor. Visitors must and refrain from "prohibited conduct" as identified in Rule (G)(2) of these Rules. The 3 minute time rule shall be monitored by the Mayor.

(b) Content. Public comments shall focus on a specific matters within the Council's jurisdiction. Members of the public are encouraged to present written comments in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items. When written materials are presented, they should be submitted to the Clerk of Council for distribution prior to the Council meeting. If materials are submitted to the Clerk of Council during or after comments, the materials will not be distributed to Council until after the adjournment of the meeting.

(c) Visitors' Legislative Comments. Visitors may speak on an item of legislation on the Agenda. Visitors must be recognized by the President, address Council from the podium, state his/her name and address, and limit his/her comments to the item of Legislation for a total of three (3) minutes in length unless otherwise specifically authorized by the President. Visitors must refrain from prohibited conduct as identified in Rule 8 of these Rules. The 3 minute time rule shall be monitored by the President.

(d) Remarks Made To Mayor. Remarks shall be made to the Council as a whole and not to any particular member thereof. No questions shall be asked of a Councilperson except through the Mayor. A Councilperson may, through the Mayor, request additional comment or pose a question to the person addressing Council.

*** (2) Prohibited Conduct

(a) No person appearing before the Council shall do any of the following: campaign for public office; promote private business ventures; use profanity or vulgar language or gestures; use language which insults or demeans any person or which, when directed at a public official or employee, is not related to his or her official duties (citizens do have the right to comment on the performance, conduct, and qualifications of public figures); make non-germane or frivolous statements; interrupt other speakers or engage in behavior that disrupts the meeting including, but not limited to, applause, cheers or jeers; engage in behavior that intimidates others; or address the Council on issues that do not concern the services, policies or affairs of the City.

(b) The Mayor shall preserve order and decorum at Council meetings. The Mayor may order the expulsion of any person for violation of these rules or any other disruptive behavior. Any person so expelled shall not be readmitted for the remainder of the meeting from which expelled. Any person who has been so expelled and who at a later meeting again engages in behavior justifying expulsion may be barred from attendance at future Council meetings for a specified and reasonable period of time, as determined by the Mayor, not to exceed six months.

Answers that can be addressed shall be either by the Mayor, eCommittee eChair, Manager or eStaff that may be present. The three (3) minute limit may be extended by a majority vote of council, if requested before commencement of the address. Any portion of the allotted minutes not used may not be deferred to other members of the public. Members of the public may address the Council during Special Council meetings when authorized by a majority vote of those Council members present only.

H. RECEIPT OF INFORMATION

If information for a meeting that requires action is not received forty-eight hours (48) prior to the meeting, the information will not be considered unless it is approved by a majority vote of Council.

I. CORRESPONDENCE.

The Clerk of Council shall review prior to Council Meeting, all correspondence. No correspondence shall be publicly read that is of an inflammatory nature or that would tend to embarrass, degrade, ridicule or humiliate any person. Correspondence determined by the Clerk to fall within the intent of this rule shall be turned over to the President of Council for disposition and circulation to all members of Council. All correspondence shall be summarized, and none shall be read in full unless requested. No unsigned letters shall be read or summarized.

VIII. AGENDA FOR REGULAR COUNCIL MEETINGS.

The purpose of regular meetings of Kent City Council is to approve actions authorized by Council's Standing Committees; receive written and verbal communications from the public; refer items for action to Council's Standing Committees, and to allow general comments by members of Council.

The business of all Regular Meetings of the Council shall be transacted in the following order, unless Council by a 3/4 vote shall suspend the rules and change the order:

- A. Roll call of members
- B. Opening remarks and Pledge to the flag
- C. Approval of minutes of previous meeting(s)
- D. Communications: Written - Audience - City Manager's Report
- E. Standing Committee Minutes, Reports, and Action Recommended Items
- F. Special Committee Minutes, Reports, and Action Recommended Items
- G. Old Unfinished Business
- H. New Business
- I. Mayor's Report
- J. Adjournment

The United States flag will be moved to the center of the room for the "Pledge of Allegiance" by the President Pro Tem.

The Presiding Officer may use discretion in permitting comments from the audience at a time other than as stated in the above order of business.

Any member anticipating missing a Council meeting should inform the President, President Pro Tem, Clerk or any member of Council they can reach, to explain they will be absent and the reason for the absence.

Any abstention vote shall be counted as neither for, nor against the matter on which the vote is being taken. An abstention is a true "non" vote.

Action that is the result of items brought under New Business will not be taken unless it is emergency by nature or with a 3/4 majority (7 members) vote of Council. Items needing Council's action shall be referred to a standing committee to allow ample discussion by Council and the public.

If a majority (5 members) of council wish to amend any action previously approved by a standing committee, said item shall be referred back to committee for further discussion.

IX. PLACEMENT OF ITEMS ON COUNCIL AGENDA

A. AUTHORIZATION OF STANDING COMMITTEE

Items placed on the agenda of Regular Council meetings shall be authorized by the action of one of Council's standing committees.

B. CITY MANAGER/ADMINISTRATIVE REQUESTS

The City Manager may place routine and standard items of Council business, ordinances, or resolutions on the City Council agenda. Such items include donations by members of the public to various City offices, and routine matters that are considered to be "housekeeping" by nature.

X. LEGISLATION: ORDINANCES & RESOLUTIONS.

~~Ordinances~~ Legislation shall be read by title unless a request is made by a member of Council to have ~~an ordinance~~ the legislation read in part or whole. The Clerk must present each member of Council with copies of each ordinance and resolution to be considered 48 hours prior to the meeting, with a copy of the agenda listing the ~~ordinances~~ legislation in the order in which they will be considered.

Roll call votes necessary for passage of legislation shall consist of reading of the title of the ~~ordinance~~ legislation, then a motion to suspend the rules. Suspension of the rules allows for the suspension of the three required readings of the ~~ordinance~~ legislation at three different meetings and is a non-debatable motion. A three-fourths (3/4) vote of the Council (~~seven votes~~ 7 members) is required for suspension of the rules. If suspension of the rules passes, a motion to adopt the draft ~~ordinance~~ legislation shall be made. If suspension of the rules fails, a motion to approve the first reading will be made. Both motions are debatable, and following debate, a vote on either motion, whichever is applicable, will follow.

~~Ordinances~~ Legislation passed with the inclusion of an emergency clause will take effect immediately upon passage. All other ~~ordinances~~ legislation that does not contain an emergency clause will take effect at the earliest time permitted by law. ~~Ordinances~~ Legislation written with the emergency clause must be passed by a three-fourths (3/4) of Council (~~seven votes~~ 7 members).

The emergency clause may be added automatically to the following ordinances and resolutions when drafted:

- A. Annual appropriation ordinance and amendments thereto.
- B. Annual Position Allocation Ordinance and amendments thereto.
- C. Annual tax budget.
- D. Certifying tax rates to the County Budget Commission.
- E. Public Defenders Contract.
- F. Boards and Commissions appointments.
- G. Community Development Block Grant
- H. Local Law Enforcement Block Grant.
- I. Donations.
- J. Recodification of Ordinances.
- K. Any other ordinances, as mandated by ORC
- L. Depositories ordinance
- M. Any other budget item, not subject to referendum pursuant to the Charter that are not new policy issues or an amendment to an existing policy.
- N. Bond and note ordinances
- O. Resolutions.
- P. Any other ordinances that deal with State or Federal deadlines.

The following examples may have the emergency clause added by a majority vote of Council prior to authorization:

- A. Zoning amendments
- B. Dedication of streets
- C. Ordinances to correct Constitutional violations

XI. STANDING COMMITTEES.

- A.** All Standing Committees shall be committees of the whole, with all members of Council and the Mayor serving on all committees. Below is a list of the Standing Committees:
1. Community Development
 2. Finance
 3. Health & Safety
 4. Land Use
 5. Streets, Sidewalks and Utilities

B. REFERRALS TO COUNCIL STANDING COMMITTEES

All information presented to Council, either in writing or verbally, during a Council meeting, will be accepted for the official record. Referral of any item to any standing committee of the Kent City Council, for further discussion, shall be done by a majority vote of the Kent City Council at the time it is presented. Decisions as to what is (a) referred to committees; (b) referred to Administration; (c) kept in committee; or (d) deleted from Council's pending list are to be made by a majority vote of Council.

Items requiring the modification or creation of a policy shall be referred to the appropriate standing committee of Kent City Council for further discussion. Items requiring action directly related to an existing policy shall be forwarded by the Clerk to the Administration.

C. PROCEDURE FOR STANDING COMMITTEES

The purpose of a committee meeting is to provide a thorough presentation of information necessary for sound debate; to provide an opportunity to obtain comments from the public; and to receive staff recommendations. Committee meetings shall be held at the call of the Chair; Vice Chair, in the absence of the Chair; or by a majority of the committee members. The Clerk shall thereupon forward a Schedule of Committee Meetings for the following week(s) to all appropriate parties and post a copy of such schedule on a bulletin board at the Service Administration Complex, 930 Overholt Road, Kent, OH, in accordance with the Ohio Sunshine Law.

Where necessary, the Chair; Vice Chair, in the absence of the Chair; or a majority of the committee members may call a meeting by scheduling the time and place with the Clerk and thereupon notifying all other Committee Members and other appropriate parties, including all members of Council. Such a meeting shall require twenty-four (24) hour notification.

A majority of the members of a Committee shall constitute a quorum to ~~de~~ conduct business.

The concurrence of the majority of a Committee on a given issue shall be necessary to include recommendations on that issue in the majority report of standing committees to the Council.

Committee meetings should be scheduled so that they do not conflict with meetings of other standing committees of Council.

Committee meetings will be held in the Fire Department Training Room, until further notice, preferably on Wednesdays.

No new items of business will be entertained at Committee meetings after 10:00 p.m. unless authorized by a majority vote of Council present.

Committee reports with substantive recommendations should be distributed to members of Council with the Council Agenda and legislation ~~forty-eight~~ (48) hours prior to the Council Meeting at which they will be considered.

If a committee meeting is held immediately before a Council meeting, on the same day, no action shall be taken on any items discussed at the committee meeting during the City Council meeting unless this rule is suspended by a 3/4 (~~seven~~ 7 member) vote of City Council.

D. AGENDA FOR COMMITTEE MEETINGS - Below is the prescribed agenda for committee

meetings:

1. Call to order by Committee Chair
2. Presentation of information, by proponent of agenda item
3. Questions from Committee for presenter
4. Questions, comments from public
5. Comments from Mayor
6. Motion
7. Discussion as it pertains to the motion
8. Vote on motion
9. Adjournment

E. COMMITTEE CHAIRPERSON ROLE

Council members who serve as Chairperson of Council Committees are under the same guidelines as found in Rule V., Role of Mayor, when wanting to speak to issues before the Committee. However, Chairpersons may step down from their Chair, turning the chair over to another committee member (the Vice Chair) and speak to the issues at hand. Once discussion on that specific topic is completed, the Chairperson may return to the Chair position.

The role of the Committee Chair is as follows:

1. Preside at Committee meetings
2. Coordinate agenda items with the Administration and the Clerk
3. Keep up-to-date on Council pending items
4. Understand and communicate Council's policies related to the Committee's areas of policy.

XII BOARDS AND COMMISSIONS

All announcements or notices for openings on Boards and Commissions shall be made by the Clerk of Council in the Tree City Bulletin, on the City's website, and in the Record Courier, when necessary, with a stated deadline that will be imposed. Applicants will be given approximately two weeks after such notice is published to submit applications to the Clerk of Council. When a vacancy occurs on a board or commission, and said vacancy may hamper the ability to assemble a quorum, the Clerk is authorized to advertise said vacancy in the Record Courier and on the City's website only.

Interviews shall be done in the Fire Department Training Room, until further notice, with one candidate at a time, and shall be open to the public. Applicants will be allowed three minutes to make a presentation during their interview.

Appointments shall be made after Council members have voted signed ballots during the next Council meeting. Ballots shall be included as part of the public record.

XIII. COUNCIL EMPLOYEES

A. CITY MANAGER

The Kent City Council shall communicate as one voice to the City Manager so as to assure a clear direction on policy issues. The Kent City Council shall establish a book of policies to be reviewed annually and as amended as the policy is modified by the actions of a majority (5 members) of Council. The City Manager will endeavor to implement these policies through budget, staffing, and procedures. The Kent City Council shall be responsible for the review of the book of policies, and shall convene regularly to evaluate the progress towards goals and policies.

The Finance Committee shall have direct oversight of the City Manager, and will provide regular opportunities for all members of Council to meeting informally to discuss Council/Manager relations, progress towards goals, and other matters of mutual concern. In accordance with the City Manager's contract, the Finance Committee shall oversee an annual formal review process.

B. CLERK OF COUNCIL

The Clerk of Council is the liaison between the Council, City Manager, administrative staff, and the public, and shall serve to facilitate communication between all parties. The Kent City Council shall periodically review and update, as necessary, the job description of the Clerk of Council. The

Finance Committee shall oversee an annual formal review process.

With respect to taking and compiling Council minutes, it is further specifically stated herein that:

1. Full titles of draft ordinances ~~ordinances~~ legislation listed for official record in minutes.
2. Manager's written or oral report typed into record of minutes at the time in the meeting that the Manager presents it.
3. Oral committee reports that are given during Council meeting to be typed into Council minutes at the point in the meeting they are given.
4. Written committee reports either typed into Council minutes at the point they are presented or attached as an appendix to the minute book if they are long.
5. Notation made of comments on issues made by council members, administration or audience members. Comments can be summarized.
6. City Manager, Mayor, and Committee Chair will provide input on Agenda before it is finalized.
7. When an item is referred to a committee or person, referrals should be underlined for emphasis and easy reference.
8. Listing of names in a roll call vote, for and against.
9. ~~Signature lines after ordinances are passed.~~ Attestation signatures required by the Clerk of Council and the Mayor at the end of each original item of Legislation and each set of Minutes. (Anyone requiring a paper copy of legislation or minutes shall receive a "certified copy" which attests to its authenticity as a true and accurate copy of the original, which will be signed in blue ink by the Clerk of Council, and then officially sealed with the Seal of the City of Kent by the Clerk of Council.)
10. The Clerk of Council is hereby designated Parliamentarian of the City Council.
11. The Clerk of Council is hereby assigned to be the appropriate designee for the Mayor and members of City Council for purposes of fulfilling the training and education requirements of Ohio's public records laws, ORC §149.43(E)(1) and ORD §109.43.

XIV. TRAVEL POLICY FOR CITY COUNCIL

Any member of City Council wishing to attend a seminar and/or conference must secure the signature of five members of Council on an authorization form that includes the purpose of travel; destination; dates of travel; and a breakdown of the estimated cost of the trip. The Travel Policy used for all employees covered under the general compensation plan for all unclassified employees and various classified employees of the City of Kent is attached to these rules and are hereby adopted as the policy to reimburse City Council for travel costs associated with City authorized business trips.

XV. RULES OF ORDER

The governing rules of the Council shall be Robert's Rules of Order Newly Revised including future amendments to Robert's Rules of Order, except where held otherwise in the Standing Rules of Council or the Charter of the City of Kent, in which cases the latter shall take precedence.

MEMORANDUM
DEPARTMENT OF COMMUNITY DEVELOPMENT
City of Kent

Date: April 11, 2017

To: Dave Ruller, City Manager

From: Jennifer Barone, Development Engineer *JKB*

Re: Chapter 1134 – R-3A: Extended High Density Residential District,
Chapter 1135 – R-4: Multifamily Residential District
Chapter 1171 – Conditionally Permitted Use Regulations

Copy: Tara Grimm, Clerk of Council
Jim Silver, Law Director
Melanie Baker, Service Director
Bridget Susel, Director of Community Development
James Bowling, City Engineer
Eric Fink, Assistant Law Director
file

I hereby respectfully request City Council agenda time on May 3, 2017 for Council to consider an amendments to the zoning code, Part 11 of the Kent Codified Ordinances (KCO) Sections 1134 – R-3A: Extended High Density Residential District, 1135 – R-4: Multifamily Residential District and 1171 – Conditionally Permitted Use Regulations.

On March 21, 2017 the Kent Planning Commission held a public hearing and discussed proposed changes to KCO Sections 1134 – R-3A: Extended High Density Residential District, 1135 – R-4: Multifamily Residential District and 1171 – Conditionally Permitted Use Regulations. The changes include shifting multifamily dwelling from a permitted use to a conditionally permitted use in the R3A and R-4 District and incorporating a condition in 1171 that adds the nearby properties not within the municipal boundary to be included when considering if the proposed project is harmonious and does not change the essential character of the area. The Planning Commission voted 5-0 to recommend to City Council to amend these zoning code sections.

A copy of the proposed amendments are attached. Since this is a text amendment and not an amendment to the Zoning Map, a newspaper advertisement for a City Council public hearing and a public hearing are required by Chapter 1111 of the Kent Zoning Code. The public hearing is scheduled to be held prior to the May 3, 2017 Committee session. Please schedule this item Land Use Committee review by Kent City Council.

CHAPTER 1134
R-3A: Extended High Density Residential District

- 1134.01 Purpose.
- 1134.02 Uses.
- 1134.03 Lot requirements.
- 1134.04 Yard requirements.
- 1134.05 Maximum building height.
- 1134.06 Site plan review and conformance.
- 1134.07 Off street parking and loading.

1134.01 PURPOSE.

The R-3A: Extended High Density Residential District is established to provide higher residential density potential to larger tracts of vacant land within the City where central water and sewer are available. This district shall provide for all uses normally permitted in the R-3: High Density District. The maximum density to be permitted in this district is approximately fifteen dwelling units per acre. (Ord. 1990-45. Passed 8-8-90.)

1134.02. USES.

Within an R-3A: Extended High Density Residential District, no building, structure or premises shall be used, arranged to be used or designed to be used except for one of the following uses:

- (a) Permitted Uses.
 - (1) Single family dwellings.
 - (2) Two family dwellings.
 - ~~(3) Multifamily dwellings.~~
 - (4)(3) Accessory buildings incidental to the principal use which do not include any activity conducted as a business.
 - (5)(4) Signs as regulated by Chapter 1165.

- (b) Conditionally Permitted Uses. The Planning Commission may issue conditional zoning certificates for uses listed herein subject to the general requirements of Chapter 1113 and the specific requirements of Chapter 1171 referred to below:
 - (1) Home occupations subject to Section 1171.01(19).
 - (2) Churches and other buildings for the purpose of religious worship subject to Section 1171.01(1), (3), (7), (11), (14) and (17).
 - (3) Cemeteries subject to Section 1171.01(3),(7) and (28).
 - (4) Public and parochial schools subject to Section 1171.01(1), (2), (3), (5), (6) and (11).
 - (5) Institutions for higher education subject to Section 1171.01(1), (2), (3), (4),

- (5), (7) and (11).
- (6) Institutions for human care - hospitals, clinics, sanitariums, convalescent homes, nursing homes, homes for the aged and philanthropic institutions subject to Section 1171.01(1), (2), (3), (5), (7), (9), (11) and (17). (Ord. 1996-45. Passed 7/10/96.)
 - (7) Governmentally owned and/or operated buildings or facilities subject to Section 1171.01(3), (7), (8) and (11).
 - (8) Governmentally owned and/or operated parks and playgrounds subject to Section 1171.01(1), (2), (3), (4), (5), (11) and (17).
 - (9) Quasi-public, institutionally or organizationally owned and/or operated recreational, instructional and meeting facilities such as those developed and used by the YMCA-YWCA, Boy Scouts or various fraternal or community service groups. subject to Section 1171.01(9), (11), (17), and (36).
 - (10) Public utility rights of way and pertinent structures subject to Section 1171.01(1).
 - (11) Family care home subject to Section 1171.01(2), (3), (5),(11), (17) and (48).
 - ~~(12)~~ (12) Group homes subject to Chapter 1175. (Ord. 1993-85. Passed 11-17-93.)
 - ~~(12)~~(13) Multifamily Dwellings subject to Section 1171.01(5), (9), (11), (37)(a) through (37)(g), (38), (39), (40) and (58).

1134.03. LOT REQUIREMENTS.

- (a) Minimum Lot Area:
 - (1) Single family dwelling - 8,000 square feet.
 - (2) Two family dwelling - 12,000 square feet.
 - (3) Multifamily dwelling - 13,000 square feet for the first three dwelling units, plus 2,500 square feet for each dwelling unit over three.
- (b) Minimum Lot Width at Building Line:
 - (1) Single family dwelling - Fifty feet.
 - (2) Two family dwelling - Seventy-five feet.
 - (3) Multifamily dwelling - 100 feet.
- (c) Minimum Lot Frontage: Fifty feet.
- (d) Maximum Lot Depth: Five times the lot width at the building line.
- (e) Minimum Usable Open Space: At least thirty percent (30%) of the actual lot area shall be devoted to usable open space.
- (f) Maximum Lot Coverage: Twenty-five percent (25%).
(Ord. 1990-45. Passed 8-8-90.)

1134.04. YARD REQUIREMENTS.

- (a) Minimum Front Yard Depth: Thirty-five feet.
- (b) Minimum Rear yard Depth: Thirty feet.
- (c) Minimum Side Yard Width:
 - (1) Single family dwelling - Ten feet.
 - (2) Two family dwelling - Ten feet.
 - (3) Multifamily dwelling - Ten feet, except that where the property abuts a residential district of lower density or a street right of way which abuts a residential district of lower density, the minimum side yard requirement shall be fifteen feet plus one foot for each two feet in building height in excess of twenty feet above grade. (Ord. 1990-45. Passed 8-8-90.)

1134.05. MAXIMUM BUILDING HEIGHT.

Thirty-five feet. (Ord. 1990-45. Passed 8-8-90.)

1134.06. SITE PLAN REVIEW AND CONFORMANCE.

All new multifamily uses permitted in accordance with this chapter of the Zoning Ordinance shall comply with all regulations set forth in Chapter 1119 herein, concerning site plan review and conformance. (Ord. 1990-45. Passed 8-8-90.)

1134.07. OFF STREET PARKING AND LOADING.

As regulated by Chapter 1167. (Ord. 1990-45. Passed 8-8-90.)

CHAPTER 1135
R-4: Multifamily Residential District

1135.01	Purpose
1135.02	Uses
1135.03	Lot Requirements
1135.04	Yard Requirements
1135.05	Maximum Building Height
1135.06	Site Plan Review And Conformance
1135.07	Off-Street Parking And Loading

1135.01 PURPOSE

The R-4: Multifamily Residential District is established to encourage high density residential development in areas served with central sewer and water, readily accessible to major thoroughfares and community facilities necessary to support such a density. This District permits single family, two family and multifamily dwellings at a maximum density of approximately thirty-six (36) dwelling units per acre.

1135.02. USES

Within an R-4: Multifamily Residential District, no building, structure or premises shall be used, arranged to be used or designed to be used except for one of the following uses:

- (a) Permitted Uses.
 - (1) Single family dwellings.
 - (2) Two family dwellings.
 - ~~(3) Multifamily dwellings.~~
 - ~~(4)~~(3) Accessory buildings incidental to the principal use which do not include any activity conducted as a business.
 - ~~(5)~~(4) Signs as regulated by Chapter 1165 herein.

- (b) Conditionally Permitted Uses: The Planning Commission may issue Conditional Zoning Certificates for uses listed herein subject to the general requirements of Chapter 1171 referred to below:
 - (1) Home occupations subject to Section 1171.01(19).
 - (2) Churches and other buildings for the purpose of religious worship subject to Section 1171.01(1),(3),(7),(11),(14) and (17)
 - (3) Cemeteries subject to Section 1171.01 (3),(7) and (28).
 - (4) Public and parochial schools subject to Section 1171.01(1),(2),(3),(5),(6) and (11).
 - (5) Institutions for higher education subject to Section 1171.01(1),(2),(3),(4),(5),(7) and (11).
 - (6) Institutions for human care - hospitals, clinics, sanitariums, convalescent homes, nursing homes, homes for the aged and philanthropic institutions subject to Section 1171.01(1),(2),(3),(5),(7),(9),(11) and (17). (Ord. 1996-45. Passed 7-10-96.)

- (7) Governmentally owned and/or operated buildings or facilities subject to Section 1171.01(3),(7),(8) and (11).
- (8) Governmentally owned and/or operated parks and playgrounds subject to Section 1171.01(1),(2),(3),(4),(5),(11) and
- (9) Quasi-public, institutionally or organizationally owned and/or operated recreational, instructional and meeting facilities such as those developed and used by the YMCA-YWCA, Boy Scouts or various fraternal or community service groups subject to Section 1171.01(9), (11),(17) and (36).
- (10) Rooming and Boarding, and lodging house accommodations subject to Section 1171.01(11), (17) and (21).
- (11) Public utility right-of-ways and pertinent structures subject to Section 1171.01(1) and (10).
- (12) Family care home subject to Section 1171.01(2), (3), (5), (11), (17) and (48).
- (13) Group home subject to Chapter 1175. (Ord. 1993-85. Passed 11-17-93.)
- (14) Temporary Shelter subject to Section 1171.01(11), (17), (36), and (39).
- (15) Commercial parking lot subject to Section 1171.01(51). (Ord. 1992-44. Passed 6-17-92.)

(16) Bed & Breakfast facilities subject to Section 1171.01(52).

(16)(17) Multifamily Dwellings subject to Section 1171.01(5), (11), (37)(a) through (36)(g), (38), (39), (40) and (58).

1135.03. LOT REQUIREMENTS

(a) Minimum Lot Area:

- (1) Single family dwelling - six thousand (6,000) square feet.
- (2) Two family dwelling - ten thousand (10,000) square feet.
- (3) Multifamily dwelling - ten thousand (10,000) square feet for the first three (3) dwelling units, plus fifteen hundred (1,500) square feet for each unit thereafter through ten (10), plus one thousand (1,000) square feet for units eleven (11) through twenty (20), plus eight hundred (800) square feet for units twenty-one (21) through but not to exceed thirty-six (36).

(b) Minimum Lot Width at Building Line:

- 1. Single family dwelling - Fifty (50) feet.
- 2. Two family dwelling - Seventy-five (75) feet.
- 3. Multifamily dwelling - one hundred (100) feet.

(c) Minimum Lot Frontage: Forty (40) feet.

(d) Maximum Lot Depth: Five (5) times the lot width at the building line.

- (e) Minimum Usable Open Space: At least thirty percent (30%) of the actual lot area shall be devoted to usable open space. (Ord. 1992-02. Passed 1-15-92.)
- (f) Maximum Lot Coverage: Twenty-five (25) percent.

1135.04. YARD REQUIREMENTS

- (a) Minimum Front Yard Depth- Thirty (30) feet plus one for each two (2) feet of building height in excess of two (2) stories above grade.
- (b) Minimum Rear Yard Depth: Thirty (30) feet plus one for each two (2) feet of building height in excess of two (2) stories above grade.
- (c) Minimum Side Yard Width:
 - (1) Single family dwelling - Ten (10) feet.
 - (2) Two family dwelling - Ten (10) feet.
 - (3) Multifamily dwelling - Ten (10) feet, except that where the property abuts a residential district of lower density or a street right-of-way which abuts a residential district of lower density, the minimum side yard requirement shall be ten (10) feet plus one foot for each two (2) feet in building height in excess of twenty (20) feet above grade. (Ord. 1985-79, effective 11-16-85)

1135.05. MAXIMUM BUILDING HEIGHT

Sixty-five (65) feet.

1135.06. SITE PLAN REVIEW AND CONFORMANCE

All new multifamily uses permitted in accordance with this Chapter of the Kent City Zoning Ordinance shall comply with all regulations set forth in Chapter 1119 herein, concerning site plan review and conformance.

1135.07. OFF STREET PARKING AND LOADING

As regulated by Chapter 1167.

CHAPTER 1171
Conditionally permitted Use Regulations

1171.01 Requirements For Conditionally Permitted Uses.

1171.01 REQUIREMENTS FOR CONDITIONALLY PERMITTED USES

(a) Regulations in this chapter apply to conditionally permitted uses in the various zoning districts.

- (1) All structures and activity areas shall be located at least 100 feet from all property lines.
- (2) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (3) All points of vehicular entrance or exit shall be located no closer than 200 feet from the intersection of two major thoroughfares, or no closer than 100 feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (4) There shall be no more than one advertisement oriented to each abutting road identifying the activity.
- (5) No lighting shall constitute a nuisance or in any way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- (6) Elementary school structures shall be located on a collector thoroughfare.
- (7) Such developments shall be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (8) Such developments shall be located adjacent to nonresidential uses such as churches, parks, industrial or commercial districts.
- (9) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (10) Site locations shall be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- (11) Such uses shall be properly landscaped to be harmonious with surrounding residential uses.
- (12) An application for a Conditional Zoning Permit shall contain three (3) maps drawn to scale, stating the location, number of acres, property lines, location of all existing structures, size and name (such as house, barn, etc.) and all abutting roads. Also said application shall contain three (3) maps showing the topography of each five (5) feet graduation or elevation; all present drainage ditches, streams, ponds and swamp areas, stating whether wet or dry, at time of application.

The application shall also contain a plan reviewed and approved by an appropriate State or Federal department concerned with soil science and land conservation (1) indicating proposed stages and specific places of operation; (2) providing for progressive rehabilitation of the land as described in the standards and conditions herein during operations so that at the termination of operations the land will be no more detrimental to persons or property than prior to the start of operations; and (3) providing for adequate safety measures to protect the public.

The Applicant shall cross section bore to measure the strata and also the water table depth. Said borings shall be not more than two-hundred (200) feet apart and one hundred and fifty (150) feet from all property lines or buildings. A drawing of the location of the proposed plant, truck scales, ingress and egress, shall be included.

A Conditional Zoning Certificate, if issued, shall be subject to the following:

- (a) A periodic work plan and progress report given in writing by the applicant.
- (b) Water discharging from sediment basins shall be ninety (90) percent free of silts determined by inspector.
- (c) Silt used for backfill shall be spread in alternate six (6) inch layers with overburden, dirt or gravel.
- (d) The area being mined or excavated shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty (50) feet to the top or bottom of any slope. No sand or gravel shall be removed or stored or overburden stored within one hundred (100) feet of any lot line not owned or controlled by the developer or operator of said business or his/her agent, nor shall mineral extraction business be conducted closer to any lot line or street so that areas contiguous and adjacent thereto do not have adequate lateral support.
- (e) A distance of no less than two-hundred (200) feet must be maintained at all times from the nearest edge of the operating site to any residence existing at the start of operations. The front yard, side yard, rear yard shall have a depth of no less than one hundred (100) feet to the nearest top edge of operations.
- (f) Asphalt, cement or resins shall not be brought to the site to be processed nor shall any stone, gravel or sand or another resource not extracted from the site be processed at the site.
- (g) All work conducted in connection with such operations shall be done between the hours of 7:30 a.m. and 5:00 p.m., except on Sundays and holidays when there shall be no operations.
- (h) The Conditional Zoning Certificate shall pertain to a specific site and acreage as covered by the performance guarantees and shall not be construed as the basis for expansion of an operation into other areas, whether adjacent or removed, not covered by the guarantees. Expansion shall require a new or renewed Conditional Zoning Certificate.
- (i) A plan showing provisions for control or erosion and sedimentation during and after the development, construction, extraction, or other use of the site shall be prepared. Such plan shall show proposals for restoration, rehabilitation and reclamation where necessary and shall be accompanied by documentation indicating the review and recommendation on said plan by the County Soil and Water Conservation District, the Division of Lands and Soil of the Department of Natural Resources, or other competent agency or soils scientist.
- (j) Effective erosion and sediment controls shall be planned and applied in accordance with the following principles:

1. The smallest practical area of land shall be exposed at any one time during development, construction, extraction, or other use.
 2. When land is exposed during development, use, extraction, etc., the exposure shall be kept to the shortest practical period of time.
 3. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development, use, etc.
 4. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained to remove all sediment from run-off and/or operating waters from land undergoing development, use, etc.
 5. Provisions shall be made to effectively accommodate the increased run-off caused by soil and surface conditions during and after development, use, etc.
 6. The development, extraction or use plan shall be fitted to the topography and soils so as to create the least erosion potential.
 7. Wherever feasible, natural vegetation shall be retained and protected.
 8. All excavation shall be made to either a water producing depth, such depth to be not less than six (6) feet below the low water mark, or shall be graded or backfilled to conform, with the surrounding area, with non-noxious, non-flammable and non-combustible solids.
- (13) All banks resulting from reclamation of all excavations shall be sloped not greater than one (1) foot vertical to five (5) feet horizontal and said bank shall have a minimum of four (4) inches top soil mixed with four (4) inches of grade, then seeded and sufficiently mulched to eliminate any erosion.
- (14) Such structures should be located adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- (15) All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form so as to appear reasonably natural. Areas shall be completely and continually drained of water when not in use or not supervised by a watchman. All slopes and banks shall be reasonably graded and treated to prevent erosion or any other potential deterioration. Such operations shall be conducted so as not to leave or cause to exist spoil banks.
- (16) Truck routes shall be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties in the community.
- (a) All ingress and egress roads through existing unimproved highways shall be treated with oil to eliminate all dust conditions.
 - (b) If deemed necessary by the Planning Commission, truck routes shall be covered by a \$25,000 (per year, per mile or part thereof) bond, to assure that

excessive damage to roads caused by such trucks will be repaired.

- (17) All permitted installations shall be maintained in a neat orderly condition so as to prevent injury to any single property, any individual, or to the community in general; a bond may be required to insure that this provision will be met.
- (18) The area of use shall be completely enclosed by a six foot fence (open or closed) and appropriately landscaped to be harmonious with surrounding properties.
- (19) Such uses shall be permitted subject to the following conditions:
 - (a) Such use shall be conducted entirely within the dwelling unit and no use of any accessory building or yard space shall be permitted.
 - (b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.
 - (c) Such use shall be conducted only by persons residing in the dwelling unit and not more than one other person.
 - (d) There shall be no display nor stock in trade nor commodities sold except those which are produced on the premises.
 - (e) The use shall not involve the use of more than thirty-three and one-third percent of the floor area of only one story.
 - (f) One unlighted name plate not more than one square foot in area announcing the name of home occupation shall be permitted.
 - (g) Such uses shall not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference or other causes.
- (20) To guarantee the restoration, rehabilitation and reclamation of mined-out areas, every applicant granted a mining permit as herein provided, shall furnish a performance bond of an amount to be set by the Department of Community Development, to be placed with the City as guarantee that such work will be done in a satisfactory manner. (Ord. 1991-53. Passed 8-7-91.)
- (21) Lodging and boarding house uses shall be so designed, maintained and operated as to comply with inspection and rules of the City Board of Health and the regulations of all other applicable City codes, and to minimize possible disruptive effects on the character of adjacent and nearby properties.

Parking shall be provided in accordance with Chapter 1167. The design and construction of parking areas, service areas and access drives shall be approved by the Planning Commission. The property must have approved sewer and water facilities and meet applicable fire and safety standards. In no case shall total lot area or lot dimensions for each dwelling be less than those required for multifamily dwelling. For the purpose of lot area and lot dimensions every four boarders or lodgers constitute a dwelling unit.

- (22) Special provisions for group dwellings:
 - (a) Group dwellings shall be considered as one building for the purpose of determining required frontage on a public street, front, side and rear yard requirements, the entire group as a unit requiring one front and rear and two side yards as specified for dwellings in the appropriate district.
 - (b) Each two or two and one-half story group dwelling development shall have a minimum court of forty feet in width and forty feet in length, in addition to its required yards, and each one story group dwelling development shall have a

minimum court of thirty feet in width and thirty feet in length, in addition to its required yards.

- (c) In a group dwelling development, no two separate dwelling structures shall be closer to each other along the sides or end of a court than fifteen feet.
 - (d) The court shall be unoccupied by any building or other structures, except fire hydrants, utility poles or other street improvements.
 - (e) The court shall have an unobstructed opening, not less than thirty feet wide, on to the front yard of a lot which has a width not less than that required in the district in which it is located.
 - (f) All dwelling structures of the group except those facing a public street shall face upon the court.
- (23) Such uses shall be permitted under the following conditions:
- (a) Provided that such facilities are located at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian-oriented facilities.
 - (b) No more than two driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty feet in width at the property line.
 - (c) If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.
 - (d) At least six-inch pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches and landscaped areas.
 - (e) Pump Islands: Gasoline pumps and pump islands may be located in any required yard space but shall be located not less than twenty (20) feet from any street line.
 - (f) Rental Equipment: If trailers, trucks or other automotive equipment are stored on or rented from the premises, they must be stored behind all building lines and on land in excess of the 15,000 square feet required landscaping:
 - (g) Landscaping occupying not less than ten (10) percent of the lot shall be provided at all service stations or car washes which adjoin or face across a street property located in any residential district. If the location of the operation is on a corner lot, it shall be mandatory to provide a lawn area in a triangular area formed by the intersecting street lines. The minimum dimension of this lawn area along each street line shall be twenty (20) feet.
 - (h) Abandoned Service Station or Car Wash: Whenever any such establishment shall be abandoned, and such building is deemed as a hazard to public safety, the Building Inspector shall take whatever action necessary in order to bring the abandoned structure into compliance with all applicable building and safety regulations adopted by the City of Kent. Above ground and under-ground appurtenances such as pumps and storage tanks shall be removed in accordance with accepted safe practice as prescribed by the National Fire

Protection Association under the supervision and approval of the Kent City Fire Department, and including the filling of depressions to the grade level of the lot

- (24) Any temporary structures shall be indicated as such on site plans submitted to the Planning Commission for approval. Such structures shall not be continued as permanent structures. The period of continuance shall be set by the Commission.
- (25) Such uses shall be located on a major thoroughfare, adjacent to nonresidential uses such as commerce, industry or recreation, or adjacent to sparsely settled residential uses.
- (26) Such uses shall be conducted not closer than 100 feet from any R District or a street right-of-way which abuts an R District. Where the I District abuts upon but is separated from an R District by a street, the width of the street may be considered as part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water-carried wastes. (Ord. 1985-79, effective 11-16-85)
- (27) Truck parking areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site. The site shall not be used for the storage of trucks and truck parking shall be limited to a time not to exceed twenty-four hours.
- (28) The area proposed for a cemetery shall be used for cemetery purposes only, and shall meet the following requirements:
 - (a) Except for office uses incidental to cemetery operations, no business or commercial uses of any kind shall be permitted on the cemetery site.
 - (b) Minimum area required for a cemetery site shall be forty acres.
 - (c) OA building of brick and/or stone, solid and/or veneered, shall be provided if storage of maintenance equipment and/or materials is to be necessary.
 - (d) Pavement width of driveways shall be at least twenty feet - ten feet per moving lane.
 - (e) Drives shall be of usable shape, improved with bituminous, concrete or equivalent surfacing and so graded and drained as to dispose of all surface water accumulation within the area.
 - (f) Pavement is to be installed as development progresses and as indicated on the final plans approved by the Planning Commission.
 - (g) Sufficient parking space shall be provided as to not deter traffic flow within the cemetery.
 - (h) Area drainage and/or sanitary facilities are subject to approval by the Board of Health and the Development Engineer prior to the issuance of a Conditional Zoning Certificate. (Ord. 1991-53. Passed 8-7-91.)
 - (i) Only signs designating entrances, exits, traffic direction and titles shall be

permitted, and must be approved by the Commission.

- (j) Adequate screening with shrubs, trees or compact hedge shall be provided parallel to property lines adjacent to or abutting residential dwellings; such shrubs, trees and hedges shall be maintained in good condition
 - (k) Provisions shall be made for landscaping throughout the cemetery.
 - (l) Location of cemetery buildings and all other structures shall conform to front, side and rear yard building lines of the particular district in which it is located.
 - (m) No grave sites shall be located within 100 feet of the right-of-way lines of any publicly dedicated thoroughfare.
 - (n) A grave site shall not be within 200 feet of an existing residence.
 - (o) Guarantees shall be made that the cemetery will be developed as proposed on the plans approved by the Commission, the Development Engineer and the City Board of Health. Guarantees shall be as follows:
 - 1. A performance bond in the amount of twenty-five thousand dollars (\$25,000) for cemeteries of forty acres. An additional five thousand dollars (\$5,000) shall be required for each ten acres over forty acres or for each ten added at a later date. The amount of the bond shall be reduced annually, and by an amount that will leave the balance of the bond proportional to the portion of the cemetery not developed to the specifications of the plans approved by the Commission, the Development Engineer and the City Board of Health. (Ord. 1991-53. Passed 8-7-91.)
 - 2. Other methods as might be worked out by the Commission, the developers and their legal advisors.
 - (p) A trust fund of an amount set by the Commission shall be established by the cemetery developers for the perpetual maintenance of the cemetery grounds. Such trust fund shall be established before any burial spaces are sold or used and shall be held and invested by a financial institution mutually agreed upon by the developers and the Commission. A percentage of the money from the sale of each burial space shall be put into the maintenance trust fund. The percentage shall be an amount set by the Commission. Interest yielded by the fund shall be applied toward the maintenance of the cemetery grounds.
- (29) An integrated planned commercial development which is a grouping of three or more commercial establishments which have common vehicular parking facilities, controlled access to abutting streets, and are developed under a unified site plan, shall be permitted providing the following conditions are met:
- (a) Only those types of business uses permitted for conventional development in the district shall be permitted in integrated planned business developments.
 - (b) The minimum setback building line shall be fifty (50) feet measured from the street right-of-way line.

- (c) Side yards and rear yards shall be required only on the perimeter of the planned development and shall be fifty feet except that where the business development is adjacent to a residential zone the side and/or rear yard shall be seventy-five feet on the side(s) abutting the residential zone only.
 - (d) All points of entrance and/or exit shall be located no closer than seventy-five feet to the intersection of two thoroughfares.
- (30) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted; and shall include such uses as refreshment stands, souvenir stands and concession stands.
- (31) A Conditional Zoning Certificate for a use permitted under these regulations shall be issued for a three year period only. After a three year period has elapsed, a new Conditional Zoning Certificate shall be required and may be issued provided that the Planning Commission and the Zoning Inspector determine that such use has been and is being operated according to the specifications of the Zoning Ordinance and the previous Conditional Zoning Certificate. If necessary, the Commission may make additional requirements for the continued operation of the use as a prerequisite for reissuance of the Conditional Zoning Certificate.
- (32) No campsite shall be occupied by the same occupant or group and/or tent, trailer or other camping equipment for a period longer than fourteen consecutive days. No cabin, lodge, room or other rental accommodations shall be occupied by the same occupant or group for a period longer than thirty consecutive days.
- (33) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted as part of the park, recreational area or campground. Included as such retail uses are refreshment stands, souvenir stands, concession stands, park office, and the limited sale of groceries when the customers are primarily the campers using the park.
- (34) Vehicular approaches to the property shall be so designed and sufficient off-street transient parking or waiting area provided as not to create an interference with traffic on the street. Activities shall be conducted within an enclosed building.
- (35) All facilities and structures shall meet all City, County and/or State of Ohio health, building, electrical and other applicable codes.
- (36) All activities, programs and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
- (37) The proposed project shall conform to all requirements and/or conditions as the Planning Commission may deem necessary to meet the following criteria:
- (a) Vehicular approaches to the property shall be so designed as not to create an interference with traffic on surrounding streets or roads.
 - (b) Maximum possible privacy for each apartment shall be provided through good design and the use of proper building materials and landscaping. Visual privacy shall be provided through structural screening and landscaping treatment. Auditory privacy should be provided through sound-proofing.

- (c) The architectural design of apartment buildings shall be developed with consideration given to the relationship of adjacent development in terms of building height, mass, texture, line and pattern and character.
- (d) Building location and placement shall be developed with consideration given to minimizing removal of trees and change of topography.
- (e) Television antenna shall be centralized.
- (f) On-Site circulation shall be designed to make possible adequate fire and police protection.
- (g) In large parking areas, visual relief shall be provided through the use of tree planted and landscaped dividers, islands and walkways. No parking or service areas shall be permitted between any street and the main building.
- (h) Paved off-street parking and service areas shall be required; parking spaces shall contain at least 200 square feet and shall be provided at the rate of two spaces per dwelling unit in each apartment building; all parking and service areas shall be paved with concrete, asphalt or equivalent and shall be located no closer than twenty feet from any residential structure. Paved vehicular access drives of at least ten feet in width shall be required for parking areas of ten vehicles or less capacity, and two-way drives of twenty feet paving width minimum shall be required for parking areas of eleven or more vehicle capacity.
- (i) The property must be served by centralized sewer and water facilities approved by the City Board of Health and operated and maintained according to the inspection and rules of the City Board of Health and all other applicable regulations.
- (38) No Zoning Certificate shall be issued until final site plans have been submitted and approved by the Planning Commission. Site plans shall show the following: drainage (including storm water), location of all buildings, fuel tanks (if any), off-street parking and service facilities, water supply, sanitation, walks, fences, walls, landscaping, outside lighting, traffic flow and its relation to abutting streets. No Zoning Certificate shall be issued until the approval by the City Board of Health has been obtained concerning the proposed sanitary sewerage facilities.
- (39) The design and construction of all access drives, access points to public streets, and parking and service areas shall be approved by the Planning Commission.
- (40) A performance bond or other financial guarantee acceptable to the Planning Commission shall be placed with the City to insure that the landscaping be installed, and that the hard surfacing of the access drives and parking and service areas be installed, and that adequate storm water drainage be installed, all in accordance with the Commission's approved plans.
- (41) All activities, except those required to be performed at fuel pumps, shall be carried on inside a building; if work is performed on a vehicle, such vehicle shall be entirely within a building.
- (42) In the interests of health, safety, general welfare and the protection of property values of the community, the area adjoining land uses and the other industries within the I District,

the Commission may require expert advice on what conditions should be imposed, if any, on the particular industrial operation to reasonably modify any injurious or offensive effects likely to result from such an operation. The cost of securing such expert assistance shall be borne by the applicant.

- (43) The use shall be permitted under the following conditions:
- (a) All sanitary landfill sites shall be subject to approval by the City Board of Health.
 - (b) A topographic map showing the design of the sanitary landfill site at a scale of not over 200 feet to the inch and with five foot contour intervals shall be submitted with the application.
 - (c) The applicant shall submit information describing the geological characteristics of the site.
 - (d) The site shall be limited to areas where water pollution will not occur
 - (e) The site shall be accessible from at least two directions.
 - (f) The site shall be so located as to minimize the effect of winds carrying objectionable odors to urbanized or urbanizing areas.
 - (g) The sanitary landfill site shall be designed and submitted to the City Board of Health for approval.
 - (h) Shelter for landfill equipment shall be provided.
 - (i) Shelter and sanitary facilities shall be provided for personnel.
 - (j) Suitable measures shall be taken to control fires.
 - (k) An attendant shall be on duty, during the time the sanitary landfill site is open, to supervise the unloading of refuse.
 - (l) Blowing paper shall be controlled by providing a portable fence near the working area.
 - (m) Sewerage solids or liquids and other hazardous materials shall not be disposed on the site.
 - (n) There shall be no open storage or burning of refuse or garbage.
 - (o) No bulky items such as car bodies, refrigerators and large tires shall be disposed on the site.
 - (p) Refuse shall be spread and compacted in shallow layers not exceeding a depth of two feet of compacted material.
 - (q) A compacted layer of at least six inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.

- (r) In all but the final layer of a land-fill, a layer of suitable cover material compacted to a minimum depth of one foot shall be placed daily on all surfaces of the fill except those where operations will continue on the following working day.
 - (s) A layer of suitable cover material compacted to a minimum thickness of two feet shall be placed over the entire surface of each portion of the final fill not later than one week following the placement of refuse within that portion.
 - (t) Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill operations promptly in a systematic manner.
 - (u) Suitable control measures shall be taken whenever dust is a problem.
 - (v) The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosions or washing of the fill, to drain off rain water falling on the fill, and to prevent the collection of standing water.
 - (w) An inspection of the entire site shall be made by a representative of the City Board of Health before the earth-moving equipment is removed from the site. Any necessary corrective work shall be performed before the landfill project is accepted as completed. Arrangements shall be made for the repair of all cracked, eroded and uneven areas in the final cover during the year following completion of the fill.
 - (x) Domestic animals shall be excluded from the site.
- (44) The scrap yard or junk yard use shall be permitted under the following conditions:
- (a) All sites, procedures and processes shall be subject to the approval of the appropriate City, County and State agencies; no Conditional Zoning Certificate shall be issued until the necessary approvals are obtained.
 - (b) The site shall be located so as to minimize the potential effect of winds carrying objectionable odors to urbanized or urbanizing areas.
 - (c) Suitable control measures shall be taken whenever dust is a problem or potential problem.
 - (d) There shall be no burning of refuse, garbage or other waste materials(e)
 - (e) Scrap yards or junk yards shall be located no closer than 500 feet to any R District, or a street right-of-way which abuts a R District, or public street right-of-way line, and shall otherwise have front, side and rear setbacks of at least 150 feet. At least a 100 foot wide strip in the 500 foot setback shall be planted for camouflaging purposes according to the following specifications:(Ord. 1985-79, effective 11-16-85)
 1. The 100 foot wide strip shall be planted with pine, Norway Spruce or other plants of similar screening value.
 2. Such trees shall be planted on a staggered pattern with no more than ten feet between trees.

3. The 100 foot wide planting strips shall be so located as to achieve the greatest screening or camouflaging effect and no visual openings shall exist.
 4. Trees should be planted that are at the optimum transplanting size and age while still being as large as possible
- (f) A minimum of twenty acres shall be required for a use proposed under this category.
- (45) Trucking terminals shall be permitted in the Industrial District only upon compliance with the following provisions of this subsection, and the approval by the Planning Commission of a site plan of the proposed development;
- (a) Every portion of the property used for buildings shall be located not closer than 100 feet to any R District, or a street right-of-way which abuts a R District; at least fifty (50) feet (nearest the residential zone) of the 100 feet shall be landscaped and orderly fashioned and a solid board fence, masonry wall or other type fence approved by the Commission shall be constructed along the interior line of the required landscaped area to a height of six feet effectively screening truck loading, unloading and maneuvering activities from the view of any abutting R Zone. (Ord. 1985-79, effective 11-16-85)
 - (b) Access for motor freight vehicles shall be by way of streets of adequate width, construction and existing or planned function according to the Land Use and Thoroughfare Plan of current adoption.
 - (c) In addition to adequate area within the site for docking, manipulation and maneuvering of motor freight vehicles, a reservoir of parking area for motor freight vehicles waiting to be loaded or unloaded, shall be provided at the rate of one parking space sufficient to park a motor freight vehicle for every four loading docks.
 - (d) The site shall be designed in such a manner as to permit forward movement of all vehicles both upon entering and upon leaving the site.
 - (e) The number, location and width of entrances to and exits from the site shall be determined by the Commission. The Commission may obtain expert opinion on the specific site proposal.
- (46) The architectural design should be developed with consideration given to the purposes of this district and commercial uses shall be so designed as to minimize possible disruptive effects on the character of properties in adjacent residential zones. Parking shall be provided for each commercial use according to the provisions of Chapter 1167.
- Parking for commercial uses shall be in addition to that required for the multifamily dwellings. Parking areas should be designed to separate parking oriented to commercial enterprises from parking oriented to the multifamily portions of the structure. Signs shall conform to the provisions of Chapter 1165, except as otherwise provided in this Code.
- (47) Multifamily dwelling uses shall be permitted only where such uses occupy the upper floors of a commercial structure and are so designed as to provide maximum practical safety and visual and auditory privacy. All applicable multifamily dwelling criteria and

requirements of this Zoning Ordinance shall apply and any additional condition~ imposed as deemed necessary by the Commission to insure the intent and objectives of this Ordinance. Parking shall be provided in accordance with Chapter 1167. Parking for multifamily uses shall be in addition to that required for commercial uses. Parking areas shall be designed to separate parking oriented to commercial enterprises from parking oriented to commercial traffic from parking oriented to the multifamily portions of the structure. Multifamily dwellings shall conform to specified density requirements.

- (48) Every family care home or group home shall comply with all licensing requirements of the Ohio Department of Mental Health and Mental Retardation. Such home shall be operated in compliance with every State law and City ordinance applicable to building, fire, health and safety requirements. There shall be no more than one family care home or group home per block face for the purpose of avoiding excessive concentration of such homes.
- (49) Upon special permit of the Planning Commission, an adult book store, adult motion picture theater or an adult cabaret may be located within a C, CR, ICR or I District. Adult bookstores, adult motion-picture theaters and adult cabarets shall be permitted under the following conditions:
- (a) That the proposed use shall not be contrary to the public interest or be injurious to nearby properties;
 - (b) That the proposed use shall not enlarge or encourage the development of a blighting influence;
 - (c) That the establishment of an additional regulated use in the area shall not be contrary to any program of neighborhood conservation;
 - (d) No adult cabaret, adult bookstore or adult motion-picture theater shall be established within five hundred (500) feet of any R-1, R-2, R-3, R-4 or R-C District or any residential use, whether in the City of Kent or in surrounding cities or townships or within five hundred (500) feet of any school, church, day care center, park or library;
 - (e) No adult cabaret, adult bookstore or adult motion-picture theater shall be established within one thousand (1000) feet of any other adult cabaret, adult bookstore or adult motion-picture theater;
 - (f) Any display, device or sign that depicts or describes specified sexual activities or specified anatomical areas shall be out of view of the public way and surrounding property;
 - (g) No adult cabaret or theater shall be established in the same building with another adult cabaret or adult bookstore or adult motion-picture theater;
 - (h) Adult cabarets, adult bookstores, and adult motion-picture theaters shall only operate during hours reasonably designated by the City of Kent Planning Commission.
 - (i) Businesses authorized under this section shall have entrances to the establishment shielded in such a way that individuals outside the business building will not be able to see the entertainment area inside the building. Additionally, said shielding shall not consist of a curtain alone, shall not obstruct

any exit sign or panic hardware for any exit, nor shall the shielding be constructed in such a way as to block any exit. All shielding shall be approved by the City Fire Chief.

- (j) All entertainment shall be conducted on a stage, or upon an open floor area such as a dance floor. While entertainment is being conducted, the entertainment area shall be separated from the areas occupied by customers or patrons.
 - (k) No adult book store or adult motion picture theater shall be established within one thousand (1,000) feet of another adult book store or adult motion picture theater. (Ord. 1994-32. Passed 4/20/94.)
- (50) In granting approval of a conditional zoning certificate for an "open air market", the Commission shall specify the exact dates, time and location of the sales and any other conditions. This information shall be supplied by the applicant at the time of application. In considering the request for approval, the Commission shall use the following criteria:
- (a) The operation of the market shall be limited to the period of the day between 6:00 a.m. and 6:00 p.m.
 - (b) Adequate parking shall be provided in the event that an "open air market" should be proposed for a parking lot; it shall not compromise usage of the lot as would be required for other businesses or activities.
 - (c) "Open air markets" shall not be disturbing or adverse to residential areas.
 - (d) All operations shall comply with all other applicable local and State codes and regulations.
 - (e) A permit shall be issued for a period not to exceed three years. (Ord. 1986-11. Passed 3- 5-86.)
- (51) The commercial parking lot use shall be permitted under the following conditions:
- (a) Conformance to all specifications for site access and design as described in Chapter 1167.
 - (b) The location of points of access in relation to surrounding traffic patterns shall have the approval of the Planning Commission, but the centerline of any access driveway shall not be closer than fifty feet to any street line of an intersecting side street
 - (c) The following handicapped parking specifications shall be incorporated into all commercial parking lot layouts:
 - 1. At least two percent (2%) of all parking should be designated for physically disabled persons;
 - 2. Spaces should be twelve feet minimum width and as close to an accessible parking lot entrance as possible;
 - 3. Reserved space should be clearly identified with signs displaying the International Symbol of Access.

- (d) Parking areas, refuse containers and driveways adjacent to or within residential districts shall be screened by either a solid wall, solid fencing or dense landscaping; a screen fence or wall shall be a minimum of ~~six~~ six feet high while a landscape planting screen should be at least eight feet high. A buffer strip for planting shall be provided of a minimum width equal to the height of the screen fence or wall. Materials selected for screen walls or fences should complement the material of adjacent buildings.
 - (e) Parking lots of more than twenty cars shall have islands planted with trees and grass or shrubbery. Minimum width of planted islands running parallel to car parking stalls shall be five feet and exist no fewer than one every ten stalls. If islands are laid out perpendicular to the parking stalls, they shall be a minimum of eight to ten feet wide. Shrubby plantings around urban parking lots shall be hardy, require little care and be able to survive with normal rainfall. Evergreen shrubbery is preferred.
 - (f) Lights for the purposes of security are required, the number depending on the brightness of the fixture. Sharp cut-off light fixtures shall be used to minimize glare, especially when it could spill onto adjacent properties. To reduce such glare, light location shall be approximately two times the mounting height away from the lot perimeter.
 - (g) Commercial parking lots in the R-4 District shall only be permitted on parcel(s) containing a minimum total land area of 25,000 square feet and which will provide for a minimum of twenty parking spaces.(Ord. 1992-44. Passed 6-17-92.)
- (52) A Bed and Breakfast is a detached, single family or two family structure wherein only lodging and breakfast are provided to transient guests for compensation. The same guest or group of registrants cannot stay at the facility for a period of more than seven (7) consecutive days or more than fourteen (14) total days within a given calendar year. In addition to any specific conditions imposed by the Planning Commission, the following conditions shall apply:
- (a) Up to four guest units are permitted in the facility. A guest unit is defined as one or more bedrooms occupied by the same family or group of registrants.
 - (b) A minimum of one parking space shall be provided for each guest unit. If the structure is also occupied by the owner-operator, two additional spaces shall be provided in addition to those for the guest units.
 - (c) One advertising sign may be placed on the structure used as a bed & breakfast. This sign may be up to four square feet in size, must be secured flat to the wall of the building and may not be illuminated. No other signage shall be permitted.
 - (d) The operator of the bed & breakfast facility must be the owner of record and hold no less than 50% interest in the property. The owner must occupy the bed & breakfast property.
 - (e) Each facility shall be treated as a "multiple use structure" and be subject to the requirements of the Kent Environmental Housing Code. Failure to obtain, renew or comply with licensing procedures specified in said code shall be cause for repeal of the conditional zoning permit.
 - (f) Only the owner and their immediate family may be employed at the facility. (Ord.

1993-86. Passed 11-17-93.)

- (53) Crematories, as defined under Section 1109.01(51.1), are subject to the following conditions:
- (a) Crematories shall be located not closer than 600 feet of a residential district and of any non-conforming dwelling within the City.
 - (b) Crematories shall be operated in conformance with all applicable local, state and Federal laws. A crematory may not burn infectious, toxic or other hazardous substances.
 - (c) The remains may not be retained within the crematory facility for more than 30 days after the cremation is completed.
 - (d) The crematory shall comply with all applicable performance standards as set forth in Chapter 1163 of the Kent Zoning Ordinance.(Ord. 1996-36. Passed May 8, 1996)
- (54)
- (a) That an outdoor recreation or play area be provided in order to accommodate the number of children being cared for at the facility. This area shall be fenced so as to provide a secure play area.
 - (b) That a noise and visual buffer be installed on the portion of the site abutting a roadway and/or residential use.
 - (c) That the facility comply with all applicable codes, as well as the specific requirements for child day care facilities as set forth in Chapter 5104 of the Ohio Revised Code. (Ord. 1996-45. Passed 7-10-96.)
- (55) Clubs, lodges, charitable, fraternal or social organizations shall be permitted:
- (a) Where it is determined that the conditions of the property on which said use is to be permitted are not generally suitable for the construction of an industrial use, and
 - (b) Such parcel shall be less than ten (10) acres in size and shall be located on major thoroughfares or near intersections (within 500 feet of major and/or collector thoroughfares); and
 - (c) Such use may have no more than two (2) building structures together with appropriate and related recreational facilities. (Ord. 2000-16. Passed 2-16-00)
- (56) There shall be one parking space for every person that lives in said structure of building.(Ord. 2002-90. Passed Sept. 18, 2002)
- ~~(57)~~ Such uses shall be conducted in a commercial building meeting all applicable building code requirements (Ord. 2010-21. Passed 02-17-10).
- ~~(57)~~(58) When considering whether proposed development meets the General Standards requirement found in KCO 1107.05(a), including the requirement for developments to be "harmonious and appropriate in appearance with the existing or intended character of

the general vicinity and that such use shall not change the essential character of the same area" (KCO 1107.05(s)9(2)), the Planning Commission may consider all nearby properties, including properties outside the jurisdiction of the City of Kent.



CITY OF KENT, OHIO

DEPARTMENT OF ECONOMIC DEVELOPMENT

DATE: April 7, 2017
TO: Dave Ruller, City Manager
FROM: Tom Wilke, Economic Development Director
RE: 2017 *Celebrate Kent!* Grant Program

The Request for Proposals (RFP) for the 2017 *Celebrate Kent!* Grant Program was issued on February 27, 2017 and the City received a total of ten (10) proposals from five (5) different organizations requesting funding for fourteen (14) events. The total amount of funding requested was \$16,000, which exceeds the \$15,000 that had been appropriated for the 2017 *Celebrate Kent!* Grant Program but staff was able to allocate funding to all ten eligible requests.

Attached is a summary table of the funding requests along with the staff's recommendation of the amount to fund for each request. Also attached are the eligibility guidelines which were included in the 2017 *Celebrate Kent!* RFP package.

I am respectfully requesting time at the May 3, 2017 Council Committee session to present the staff funding recommendations to the members of Council and to request, with emergency, approval of the proposed grant funding allocations.

Please let me know if you have any questions concerning the attached materials or if you need any additional information on the 2017 *Celebrate Kent!* Grant Program in order to include this item on the agenda.

Thank you.

cc: Bridget Susel, Community Development Director
Tara Grimm, Clerk of Council
David Coffee, Budget & Finance Director
Suzanne Stemnock, Executive Assistant

Celebrate Kent!

PROGRAM GUIDELINES

PROGRAM GOAL:

To provide new opportunities to celebrate the quality of life enjoyed by City of Kent residents and share with those outside of the community the attributes that make Kent a unique and exciting place to work, play, learn and live.

OBJECTIVES:

1. Attract Kent residents, and visitors from other communities, to downtown activities and events.
2. Promote the City's attributes to those outside of the City.
3. Create additional commercial opportunities for businesses operating in the downtown district.

PROGRAM REQUIREMENTS:

1. The project needs to be oriented towards attracting people to the Kent downtown district and must be held within the downtown district.
2. Applicants must be, or represent, a Kent company or organization.
3. Funding is intended to support **verifiable program expenses** which includes hard costs such as materials, advertisements, flyers, printing, etc. Funding for administrative purposes such as salaries, general office supplies, agency overhead, payment for services provided by applicant employees or representatives, etc. will not be considered eligible project costs.
4. At the completion of the event(s) the applicant must submit a Statement of Success report to the City of Kent summarizing and documenting the results of the event(s), and explaining how the stated program goals and objectives were met.
5. Grant funds will be disbursed on a reimbursement basis only for eligible expenses as identified in the Project Description and Project Budget sections of the submitted application. All invoices must be for good or services specific to the event only and must specify the quantity of the item or service provided. All eligible expenses must be documented through third-party invoices and proof of payment. Hand written receipts or bills that are not formalized company invoices will not be accepted. No disbursements will be authorized until the report mentioned in item number 4 has been received by the City of Kent.
6. Each dollar of grant funding must be matched with one-dollar from another source, or two-dollars of in-kind contribution. A combination of both cash and in-kind contributions is permissible; however, separate and distinct accounting procedures must be maintained for each of the two sources. Evidence of all matching contributions, be they in-kind or cash, must be verifiable, and accepted by the City of Kent prior to reimbursement.
7. Grants must be completed within one year of the date of the executed grant agreement. The final invoice for payment must be submitted no later than April 30, 2018.
8. All 2017 *Celebrate Kent!* Grant agreements must be signed within 30 days of notification of grant award.
9. If an organization is submitting an application for multiple events, it should submit one application covering all of the events.

**2017 Celebrate Kent
Recommended Funding Amounts**

Organization	Program	2017 Requested Funding	Recommended Funding	Projected Matching Funds	2016 Funding Received	2015 Funding Received	2014 Funding Received
Haymaker Farmers' Market	Music @ the Market	\$ 1,550	\$ 1,400	\$ 1,550	\$ 1,000	\$ -	\$ 1,500
Standing Rock Cultural Arts	Downtown Innovative Community Events (D.I.C.E.), 5 Events	\$ 1,500	\$ 1,350	\$ 6,900	\$ 1,200	\$ 1,500	\$ 2,000
Standing Rock Cultural Arts	"Who's Your Mama?" Earth Day	\$ 1,500	\$ 1,350	\$ 1,260	\$ -	\$ 1,500	\$ 2,000
Crooked River Arts Council	Kent Blues Fest	\$ 2,750	\$ 2,500	\$ 14,000	\$ 2,400	\$ 3,000	\$ -
Crooked River Arts Council	Kent Round Town	\$ 2,750	\$ 2,500	\$ 14,000	\$ 2,400	\$ 3,000	\$ 3,000
Crooked River Arts Council	Kent Beatlefest	\$ 1,250	\$ 1,150	\$ 10,000	\$ 1,000	\$ 1,250	\$ -
Crooked River Arts Council	Reggae Jam	\$ 1,250	\$ 1,150	\$ 10,000	\$ 1,000	\$ 1,250	\$ -
Western Reserve Folk Arts Assoc.	Kent Paranormal Weekend	\$ 1,800	\$ 1,600	\$ 8,800	\$ 1,500	\$ -	\$ 1,300
Western Reserve Folk Arts Assoc.	Kent Ghost Walk	\$ 1,050	\$ 950	\$ 5,450	\$ 1,000	\$ -	\$ 1,000
Kent Jaycees	Grill for Good	\$ 1,200	\$ 1,050	\$ 15,000	\$ -	\$ 1,000	\$ 1,000
Western Reserve Folk Arts Assoc.	Kent Folk Festival *	\$ -	\$ -	\$ -	\$ 2,000	\$ -	\$ 1,500
Lovelight, Inc.	Camp Halim Youth Kent Heritage Festival Performance *	\$ -	\$ -	\$ -	\$ -	\$ 800	\$ -
Kent Area Chamber of Commerce	Discover Downtown *	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500
Kent Historical Society	Historic Kent Town Tour *	\$ -	\$ -	\$ -	\$ 1,500	\$ -	\$ 1,200
		\$ 16,600	\$ 15,000	\$ 86,960	\$ 15,000	\$ 13,300	\$ 15,000

* No Application Received in 2017

**CITY OF KENT
DEPARTMENT OF PUBLIC SERVICE
DIVISION OF ENGINEERING**

MEMO

TO: Dave Ruller
Tara Grim

FROM: Jim Bowling *SB*

DATE: March 24, 2017

RE: 300 N. Water Street - License Agreement for Handicap Access Ramp

The Service Department is requesting Council time to review a request from Standing Rock Cultural Arts in conjunction with John M and Rita M Kuhar to construct a handicap access ramp at 300 North Water Street within the public right of way. The proposal requires the relocation of the existing sidewalk away from the building. Staff has reviewed the proposal and believes that the adverse impacts to the right of way have been addressed as part of the proposal. In addition, the sidewalk relocation will eliminate two existing drive aprons that are no longer being used. This will allow for two additional parking spots to be striped on North Water Street.

Attached is a copy of the proposed License Agreement.

C: Melanie Baker
Jim Silver
Tom Wilke
Suzanne Stemnock
file

CITY OF KENT, OHIO
LICENSE AGREEMENT

THIS AGREEMENT is made by and between the CITY OF KENT, OHIO, hereinafter called "City" and John M and Rita M Kuhar, hereinafter called the "Licensee."

The City is the owner, in fee simple or by highway easement, of land, hereinafter known as the "Property." For and in consideration of the covenants, conditions, agreements and stipulations of the License expressed herein, the City does hereby agree the Property may be used by the Licensee for the purpose as outlined in Part 1 below, in accordance with the laws and Charter of the City of Kent. The Property is more particularly described in the attached exhibit listed below.

Exhibit "A"
Partial Floor Plan and Elevation (A-1)
Ramp Section (A-2)
Partial Floor Plan and Elevation (A-3)

The parties hereto covenant and agree as follows:

1. **NATURE OF INTEREST:**

The Licensee understands that by issuing this license, the City has merely granted the Licensee the right to occupy the right-of-way and this license does not grant or convey to the Licensee any interest in the Property.

2. **USE:**

2.1 The Property shall be used for the purpose of: Installing
a handicap ramp and stairs.

and for no other purpose.

2.2 No structural alterations may be made to the City's property without the express written permission of the City of Kent, Director of Public Service.

3. **TERM:**

The City does hereby agree the Property may be used by the Licensee for a term of one (1) year commencing on _____, 2017, and ending on _____, 2018 unless terminated earlier by either party. This license will automatically renew yearly unless one (1) month before expiration either party notifies the other of its intention to terminate per Paragraph 14.

4. NECESSARY LICENSES AND PERMITS:

4.1 Licensee shall be licensed to do business in the State of Ohio and City of Kent, and upon request, Licensee shall demonstrate to the City that any and all such licenses are in good standing. Correspondence shall be addressed as follows:

All correspondence to the City shall be addressed:

Service Director
City of Kent
930 Overholt Road
Kent, Ohio 44240

All correspondence to the Licensee shall be addressed:

4.2 Licensee shall secure all necessary permits required in connection with the use of the Property and shall comply with all federal, state and local statutes, ordinances, rules, or regulations which may affect, in any respect, Licensee's use of the Property. Licensee shall, prior to the commencement of any work, obtain and thereafter maintain, at its sole cost and expense, all licenses, permits, etc., required by law with respect to its business use of the Property.

5. STORAGE AND VENDING:

No storage of materials or supplies of any nature will be permitted on the Property except as directly related to the agreed business use of the Property.

6. TAXES:

Licensee agrees to be responsible for and to timely pay all taxes and/or assessments that may be legally assessed on Licensee's interest, or on any improvements placed by Licensee on said Property, during the continuance of the license hereby created, including any real estate taxes. The Licensee must provide written notice to the City, at the address referenced in Paragraph 4.1, within thirty (30) days of payment of all taxes and/or assessments.

7. DIRECTOR OF PUBLIC SERVICE TO ACT FOR CITY:

The granting of this permit shall not be construed as an abridgment or waiver of any rights which the Director of Public Service has in exercising his jurisdictional powers over the City property, easements or right-of-ways. The City Director of Public Service shall act for and on behalf of the City of Kent in the issuance of and carrying out the provisions of this permit.

8. CITY USE OF PROPERTY:

If for any reason the Director of Public Service or his duly appointed representative deems it necessary to order the removal, reconstruction, relocation or repair of the Licensee's changes to the City's property, then said removal, reconstruction, relocation or repair shall be promptly undertaken at the sole expense of the Licensee's thereof. Failure on the part of the Licensee to conform to the provisions of this permit will be cause for suspension, revocation or annulment of this permit, as the Director of Public Service deems necessary.

9. MAINTENANCE OF PROPERTY:

Licensee shall, at its sole expense, keep and maintain the Property free of all weeds, debris, and flammable materials of every description, and at all times in an orderly, clean, safe, and sanitary condition consistent with neighborhood standards. A high standard of cleanliness, consistent with the location of the area as an adjunct of the City, will be required. Defoliant, noxious, or hazardous materials or chemicals shall not be used or stored on the Property.

10. MAINTENANCE OF IMPROVEMENTS:

10.1 Licensee, at Licensee's own cost and expense, shall maintain all of his/her improvements to the Property. Licensee shall take all steps necessary to effectively protect the Property from damage incident to the Licensee's use of such Property, all without expense to the City.

10.2 Licensee shall be liable to, and shall reimburse the City for, any damage to City owned property that in any way results from or is attributable to the use of said Property by the Licensee or any person entering upon the same with the consent of the Licensee, expressed or implied.

11. HOLD HARMLESS:

Licensee shall occupy and use Property at its own risk and expense and shall save the City, its officers, agents, and employees, harmless from any and all claims for damage to property, or injury to, or death of, any person, entering upon same with Licensee's consent, expressed or implied, caused by any acts or omissions of the Licensee.

12. INSURANCE:

12.1 At the time of the execution of this Agreement, Licensee shall, at its own expense, take out and keep in force during the terms of this Agreement:

(a) Liability insurance, in a company or companies to be approved by the City to protect against any liability to the public incident to the use of, or resulting from injury to, or death of, any person occurring in or about, the Property, in the amount of not less than *Five Hundred Thousand Dollars (\$500,000.00)*, to indemnify against the claim of one person, and in the amount of not less than *One Million Dollars (\$1,000,000.00)* against the claims of two (2) or more persons resulting from any one (1) accident.

(b) Property damage or other insurance in a company or companies to be approved by the City to protect Licensee, and the City against any and every liability incident to the use of or resulting from any and every cause occurring in, or about, the Property, including any and all liability of the Licensee, in the amount of not less than *One Hundred Thousand Dollars (\$100,000.00)*. Said policies shall inure to the contingent liabilities, if any, of the Licensee and the City, and shall obligate the insurance carriers to notify Licensee and the City, in writing, not less than thirty (30) days prior to cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of the Licensee and the City.

12.2 A copy of the "Certificate of Insurance" will be submitted to the City at the time of execution of license and annually thereafter.

13. MODIFICATION:

The terms of this Agreement may be modified upon agreement of the parties.

14. REVOCATION AND TERMINATION:

14.1 The City may revoke this license at any time. The Licensee may terminate this Agreement at any time.

14.2 In the event this license is revoked or the Agreement is terminated the Licensee will peaceably and quietly leave, surrender, and yield up to the City the Property. The Property will be restored to its previous condition at the expense of the Licensee and no costs for removal will be reimbursed by the City.

14.3 Upon revocation of the license or upon termination or expiration of Agreement, any personal property, or other appurtenances, including all footings, foundations, and utilities, placed on the City property will be removed by Licensee. If any such appurtenances are not so removed after ninety (90) days written notice from the City to the Licensee, the City may proceed to remove the same and to restore the Property and the Licensee will pay the City, on demand, the reasonable cost and expense of such removal and restoration.

15. **RELOCATION:**

A Licensee who licenses property from the City shall not be eligible for relocation payments.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate by the parties hereto as of the date herein last written below. Licensee acknowledges receipt of a copy of this Agreement and agrees to comply with the provisions herein contained.

LICENSEE(S): John M & Rita M Kuhar

Signature

Signature

Mailing Address

Telephone

Date

CITY OF KENT, OHIO

Director of Public Service

Date

APPROVED AS TO FORM:

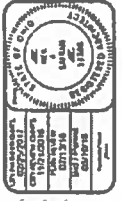
James R. Silver, Law Director
City of Kent

EXHIBIT "A"

Partial Floor Plan and Elevation (A-1)

Ramp Section (A-2)

Partial Floor Plan and Elevation (A-3)

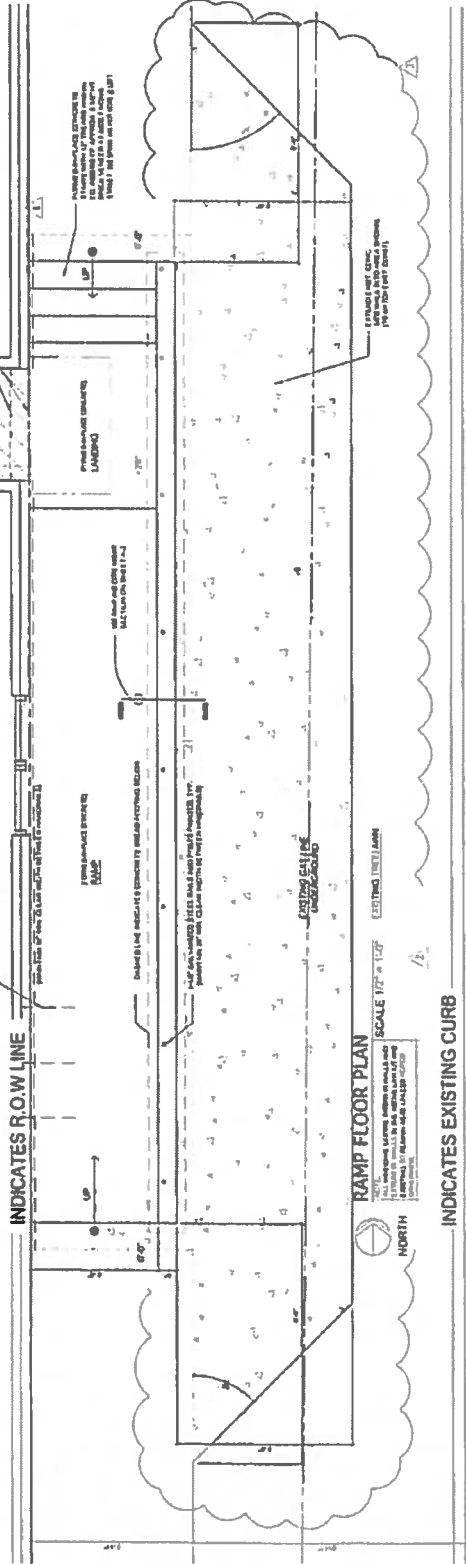


DRAWING INDEX	
NO.	COMMENTS
A-1	Sheet to show in its entirety. Elevation, Elevation and plan view.
A-2	Partial elevation showing entrance ramp and plan view.
A-3	Partial elevation showing entrance ramp and plan view.
A-4	Partial elevation showing entrance ramp and plan view.

Note, see sheet A-3 for additional information

PARTIAL ELEVATION
SCALE 1/2" = 1'-0"

Standing Rock Cultural Arts entrance ramp
300 N. Water St., Suite H
Kent, Ohio



Sofum Studio
ARCHITECTURE

WILL J. SOFUM
ARCHITECT
100 N. WATER ST., SUITE H
KENT, OHIO 44240

Standing Rock Cultural Arts
entrance ramp

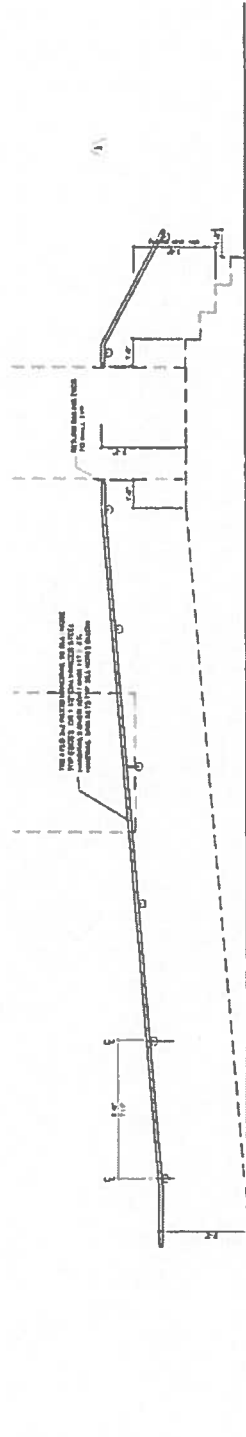
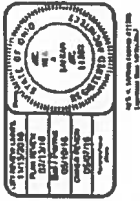
300 N. Water St., Suite H
Kent, Ohio

Year: 2016 - 12

Scale: 1/2" = 1'-0"

A-1

- GENERAL NOTES**
1. GENERAL CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS ON SITE BEFORE BEGINNING WORK.
 2. THE CONTRACTOR IS TO VERIFY ALL DIMENSIONS AND CONDITIONS ON SITE BEFORE BEGINNING WORK.
 3. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
 4. ALL MATERIALS AND METHODS OF CONSTRUCTION ARE TO BE APPROVED BY THE ARCHITECT BEFORE USE.
 5. THE CONTRACTOR IS TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 6. THE CONTRACTOR IS TO PROTECT ALL EXISTING UTILITIES AND STRUCTURES ON SITE.
 7. THE CONTRACTOR IS TO MAINTAIN ALL NECESSARY PERMITS AND INSURANCE THROUGHOUT THE PROJECT.
 8. THE CONTRACTOR IS TO MAINTAIN ALL NECESSARY RECORDS AND DOCUMENTATION THROUGHOUT THE PROJECT.
 9. THE CONTRACTOR IS TO MAINTAIN ALL NECESSARY COMMUNICATIONS WITH THE ARCHITECT AND OTHER STAKEHOLDERS.
 10. THE CONTRACTOR IS TO MAINTAIN ALL NECESSARY SAFETY MEASURES THROUGHOUT THE PROJECT.

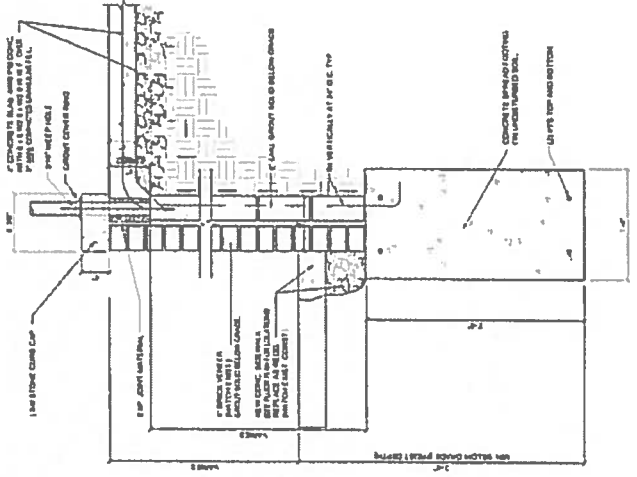


HANDRAIL (@ Wall) ELEVATION
SCALE 1/2" = 1'-0"

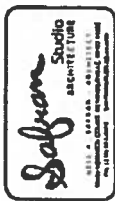
**Standing Rock
Cultural Arts
entrance ramp**
300 N. Water St., Suite H
Kent, Ohio

RAMP and RAILING NOTES

- NOTES**
1. ALL CONCRETE CONSTRUCTION SHALL CONFORM WITH CHAPTER 18 OF THE CODE AND WITH THE PROVISIONS OF ACI 318, LATEST EDITION.
 2. CONCRETE EXPOSED TO THE WEATHER, FREEZE-THAW, DEICING CHEMICALS, AND/OR PARKED VEHICLES SHALL CONTAIN 6% (1-1/2") ENTRAINMENT EITHER BY USING TYPE "A" PORTLAND CEMENTS OR ADMIXTURES CONFORMING TO ASTM C-360.
 3. UNLESS SPECIFIED, COMPRESSIVE STRENGTH 4000 PSI CONCRETE TO BE USED FOR THE NEW RAMPS AND STAIRS.
 4. APPLY BROOM FINISH SLIP RESISTANT SURFACE TO RAMP.
 5. HANDRAIL ASSEMBLIES SHOWN ARE TO BE DESIGNED TO RESIST A SINGLE CONCENTRATED LOAD OF 200 POUNDS APPLIED IN ANY DIRECTION AT ANY POINT ALONG THE RAMP AND STAIRS. THE HANDRAILS SHALL BE SUPPORTED BY STRUCTURES TO TRANSFER THIS LOADING TO EXISTING STRUCTURAL ELEMENTS OF THE BUILDING.

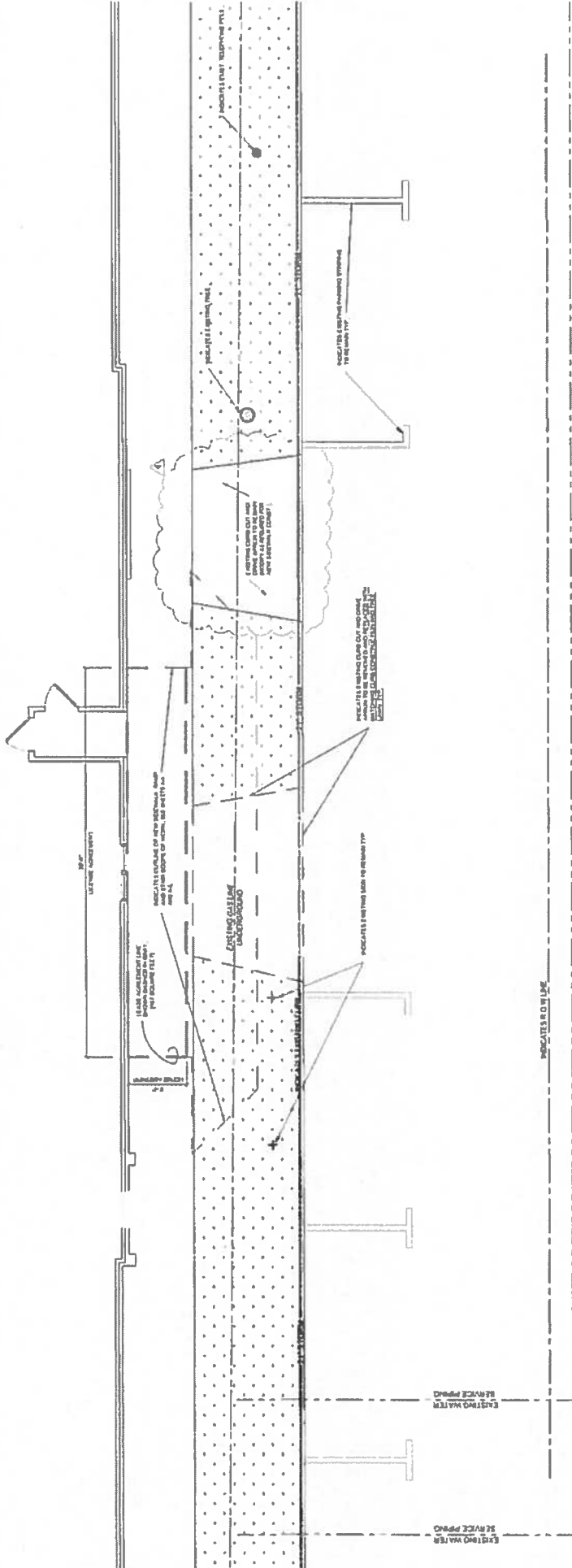
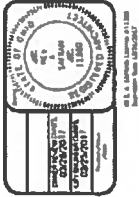


RAMP AND CORE MOUNT SECTION
SCALE 1/2" = 1'-0"



**Standing Rock
Cultural Arts**
entrance ramp
300 N. Water St., Suite H
Kent, Ohio

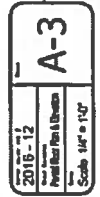
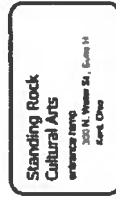
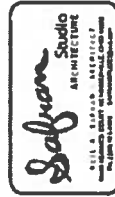
Project No.	2016-12
Sheet No.	A-2
Scale	1/2" = 1'-0"



UTILITY LOCATIONS SHOWN ARE APPROXIMATE. SEE NOTE BELOW.
 (NOT BASED ON A RECENT SURVEY)

EXISTING TOPOGRAPHIC INFORMATION / DEMO. FLOOR PLAN
 SCALE 1/4" = 1'-0"

NOTE: ALL EXCAVATION AND CONSTRUCTION WORK TO BE COORDINATED WITH THE OFFICE OF THE CITY ENGINEERING DEPT. UTILITIES SHOWN ARE BASED ON INFORMATION PROVIDED BY A UTILITY SURVEYOR ELEMENT IN ANS 8149 OF THE CITY OF CHICAGO. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES SHOWN AS WELL AS THE WRITTEN PERMISSION OF THE CITY ENGINEERING AND ENGINEERING DEPARTMENTS. POSSESSION AND USE OF THESE DRAWINGS BY THE BUILDING OWNER, TENANTS AND CONTRACTORS IS AN AGREEMENT HOLDING THE ARCHITECT HARMLESS OF ALL FUTURE LEGAL CLAIMS IN REGARDS TO THE EXCAVATION AND CONSTRUCTION SCOPE OF WORK DESCRIBED IN THESE DRAWINGS. ADDITIONALLY THE CONTRACTOR IS TO VERIFY ALL UNDERGROUND UTILITY LINES IN THE FIELD AS REQUIRED.





CITY OF KENT, OHIO

DEPARTMENT OF LAW

TO: DAVID RULLER, KENT CITY COUNCIL, MAYOR FIALA
FROM: JAMES R. SILVER *JRS*
DATE: APRIL 25, 2017
RE: REVISIONS TO PROPOSED CHAPTER 937

Please see attached proposed changes to Chapter 937 regarding the new wireless support structure and facility legislation passed by the State in amendment to ORC Chapter 4943 in SB 331.

The proposed changes in the City's Code were brought about due to changes in the Ohio Revised Code. Our state legislators have pretty much removed control of "small cell towers" (under 50' in height) from local governments. Staff has tried to keep some control while remaining in compliance with the State code. We ask City Council to adopt the recommended changes to our code.

One of the changes made by the State was to allow a small cell tower operators to place their units on any City owned structure, be it a building, street signal pole, etc. This is passed on as an FYI of the further erosion of local government powers and control

CHAPTER 937

Use of Public Ways by Service Providers

937.01 Scope of Chapter; Definitions.	937.06 Notice of Work, Routine Maintenance and Emergency Work.
937.02 Consent to Occupy and Use the Public Right-of-Way.	937.07 Construction Permits and Standards.
937.03 Annual Registration of Service Providers.	937.08 Recovery of City Costs in Managing the Public Right-of-Way.
937.04 General Public Right-of-Way Use Regulations.	937.09 Cable Televisions Franchise.
937.05 Location, Relocation and Removal of Facilities.	937.10 Private Facilities in the Public Right-of-Way.
	937.11 Miscellaneous Provisions.
	937.99 Penalties and Other Remedies.

937.01 SCOPE OF CHAPTER; DEFINITIONS

- (a) The purpose and intent of this Chapter is to:
- (1) Manage Occupancy or Use of the Public Right-of-Way.
 - (2) Encourage the provision of advanced, competitive utility and telecommunications services on the widest possible basis to the businesses, institutions and residents of the City.
 - (3) Manage reasonable access to the Public Right-of-Way of the City for utility and telecommunications service purpose on a competitively neutral basis.
 - (4) Conserve the limited physical capacity of the Public Right-of-Way held in trust by the City for the benefit of the public.
 - (5) Assure that the City receives cost recovery for the Occupancy and Use of the Public Right-of-Way in accordance with law.
 - (6) Assure that all Service Providers with Facilities in the Public Right-of-Way comply with the ordinances, rules and regulations of the City.
 - (7) Assure that the City fairly and responsibly protects the public health, safety and welfare.
 - (8) Enable the City to discharge its public trust consistent with rapidly evolving federal and State regulatory policies, industry competition and technological development.
- (b) For the purpose of this Chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise;
- (1) **Accessory Equipment means any equipment used in conjunction with a wireless facility or wireless support structure. This includes utility or transmission equipment, power storage, generation or control equipment,**

- cables, wiring, and equipment cabinets.
- (2) Affiliate means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another Person.
 - (3) Antenna means communications equipment that transmits or receives radio frequency signals in the provision of wireless service, including associated accessory equipment.
 - (4) Cable Operator means a Person providing or offering to provide Cable Service within the City.
 - (5) Cable Service means “cable service” as defined in the Cable Communications Policy Act of 1984, codified at 47 U.S.C. §532, et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as each might be further amended.
 - (6) Cable System means “cable system” as defined in the Cable Communications Policy Act of 1984, codified at 47 U.S.C. §532, et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as each might be further amended.
 - (7) Capital Improvement means an addition made to enhance the value or extend the useful life of an existing System or Facilities, including Construction, Reconstruction, Installation, Rehabilitation, Renovation, Improvement, Enlargement and Extension of Facilities, but not including ordinary or Routine Maintenance and repair.
 - (8) City means the City of Kent, Ohio.
 - (9) City Manager means the City Manager, or his or her designee.
 - (10) City Property means and includes all real property owned by the City, other than Public Streets and Public Easements as those terms are defined herein, and all property held in a proprietary capacity by the City, which are not subject to Public Right-of-Way consent and Permit requirements of this Chapter.
 - (11) Construct, Constructing, Construction, etc. means installing, repairing, maintaining, operating, replacing or removing any Public or Private Facility, regardless of the methods employed.
 - (12) Construction Permit or Permit means a permit issued pursuant to this Chapter and such other permits required by other sections of the Kent Codified Ordinances as apply.
 - (13) Distributed Antenna System means a network or facility to which all of the following apply:
 - (i) It distributes radio frequency signals to provide wireless service.
 - (ii) it meets the height and size characteristics of a small cell facility.
 - (iii) it consists of all of the following
 - (1) Remote antenna nodes deployed throughout a desired coverage area:
 - (2) a high-capacity signal transport medium connected to a central

hub site;

(3) Equipment located at the hub site to process or control the radio frequency signals through the antennas.

- (14) Emergency means an unforeseen occurrence or condition calling for immediate action including but not limited to emergency temporary repairs and subsequent follow-up permanent repairs relating to the emergency condition.
- (15) Excavate, Excavating or Excavation means cutting, sawing, breaking, drilling into, boring under, or otherwise altering any Public Street or sidewalk pavement, and/or digging, drilling into or boring under any unpaved portion of the Public Right-of-Way, including any other work or activity which disturbs the existing surface or subsurface structure, composition, or soil compaction, for the purpose of carrying on any Construction activity.
- (16) Excess Capacity means the volume or capacity in any existing or future duct, conduit, manhole, or other Facility in the Public Right-of-Way that is or will be available for use for additional Facilities, which are compatible with the existing use.
- (17) Facility, Facilities or System means the plant, equipment and property, including but not limited to, cables, fibers, wires, pipes, conduits, ducts, pedestals, antennae, electronics, poles, pipes, mains, plant, equipment and other appurtenances located under, on or above the surface of the ground in the Public Right-of-Way of the City and used or to be used to transmit, receive, distribute, provide or offer Services but also including Private Facilities.
- (18) Lane Obstruction means the blocking or diverting of vehicular and/or pedestrian traffic from a street or sidewalk for the purpose of Constructing, Excavating, installing, repairing, maintaining, operating, replacing or removing any Facility, including (A) the lifting or removing of manhole or handhole covers, and (B) the opening or accessing of at-grade or pole-mounted cabinets, pedestals, transformers, power supplies, amplifiers, splice enclosures, traps or other Facilities.
- (19) Micro Wireless Facility includes both a distributed antenna system and a small cell facility and related wireless facilities.
- (20) Micro Wireless Facility Operator means a public utility or cable operator that operates a micro wireless facility.
- (21) New Service Orders means the physical connection from the Public Service Provider's existing Facilities on private property for the purpose of providing a new Service to a customer in the City, which is not a Capital Improvement.
- (22) Occupancy or Use means, with respect to the Public Right-of-Way, to place a tangible thing in the Public Right-of-Way for any purpose, including, but not limited to, Constructing, repairing, positioning, maintenance or operating lines, poles, pipes, conduits, ducts, equipment or other structures, appurtenances or Facilities necessary for the delivery of

public utility-like Services, including Service provided by a Cable Operator, or other services over Private Facilities in the Public Right-of-Way.

- (23) Other Ways means the highways, streets, alleys, Utility Easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.
- (24) Overhead Facilities means utility poles and wires, cables and other such equipment running between and on such poles, including the underground supports and foundation for such Facilities.
- (25) Person means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies, trusts and individuals and include their lessors, trustees and receivers.
- (26) Private Facility means the plant, equipment and property, including but not limited to, cables, fiber optics, wires, pipes, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute or provide telecommunications or other services between or among private buildings or facilities where there is no offer of service to the public.
- (27) Private Service Provider means any Person who, pursuant to the consent to Occupy or Use the Public Right-of-Way pursuant to Section 937.02 of this Chapter, directly or indirectly owns, controls, operates or manages Private Facilities within the City's Public Right-of-Way used or to be used for the purpose of transmitting, receiving, distributing or providing telecommunications or other services between or among private buildings or facilities where there is no offer of Service to the public.
- (28) Public Easement means any easement under the jurisdiction and control of the City and acquired, established, dedicated or devoted for public purposes, including utility purposes.
- (29) Public Right-of-Way means the surface of, and the space within, through, on, across, above or below, any Public Street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, Public Easement and any other land dedicated or otherwise designated for a compatible public use, which is owned or controlled by the City but excludes a private easement.
- (30) Public Service Provider means any Person that, pursuant to the consent to Occupy or Use the Public Right-of-Way pursuant to Section 937.02 of this Chapter, directly or indirectly owns, controls, operates or manages Facilities within the City's Public Right-of-Way, used or to be used for the purpose of offering Service to the public within the City or outside of the City's boundaries.
- (31) Public Street means the paved and unpaved portion of any street, road, boulevard, drives, highway, freeway, parkway, lane court, alley or other Public Right-of-Way in which the City has an interest in law or equity and

which has been acquired, established, dedicated or devoted to street purposes.

- (32) PUCO or Public Utilities Commission of Ohio means the State Administrative agency, or lawful successor, authorized to regulate and oversee certain Public or Private Service Providers and Services in the State of Ohio.
- (33) Reconstruct, Reconstruction, etc. means physical change to twenty percent (20%) to one hundred percent (100%) of an existing Facility or System involving Construction in Public Streets, Utility Easements, or Public Right-of-Way.
- (34) Routine Maintenance means repair, upkeep, replacement or restoration of existing Facilities located in the Public Right-of-Way that is not an Emergency and does not include Excavation of the Public Right-of-Way.
- (35) Service means the offering of to water, sewer, electric, gas, telephone, telecommunications, cable television, information or other utility-like service for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the Facilities used.
- (36) Service Provider means any Public Service Provider and/or Private Service Provider.
- (37) Small Cell Facility means a wireless facility where the antenna is located inside an enclosure of not more than six cubic feet in volume or in the case of an antenna that has exposed elements, the antenna and all the exposed elements could fit within an enclosure of not more than six cubic feet in volume. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and the other services. If the wireless facility were placed on a wireless support structure, the increased height would be not more than 10 feet or the overall resulting height would be not more than 50 feet.
- (38) State means the State of Ohio.
- (39) Surplus Space means that portion of the Usable Space on a utility pole or underground conduit which has the necessary clearance from other Public or Private Service Providers using the pole or conduit, as required by the orders and regulations of PUCO and other applicable State and local orders and regulations, to allow its use by an additional Public or Private Service Provider for a pole or underground attachment.
- (40) Trenchless Technology means the use of directional boring, horizontal drilling and microtunneling and other techniques in the Construction of underground portions of Facilities that result in the least amount of disruption and damage to the Public Right-of-Way as possible.
- (41) Underground Facilities means Facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead

Facilities.

- (42) Utility Easement means any easement owned by a Service Provider and acquired, established, dedicated or devoted for the purpose of providing Service to the public.
- (43) Utility Pole means a structure that is designed for, or used for the purpose of carrying lines, cables or wires for electric or telecommunications service.
- (44) Wireless Facility means an antenna, accessory equipment, or other wireless device or equipment used to provide wireless service.
- (45) Wireless Service means any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided using wireless facilities.
- (46) Wireless Support Structure means a pole, such as a monopole, either guyed or self supporting, light pole, traffic signal, sign pole, or utility pole capable of supporting wireless facilities. As per the Revised Code wireless support structure excludes utility pole or other facility owned or operated by municipal electric utility.

937.02 CONSENT TO OCCUPY OR USE THE PUBLIC RIGHT-OF-WAY.

- (a) Consent Required to Occupy Public Right-of-Way. No Person shall Occupy or Use the Public Right-of-Way without obtaining prior consent from the City to do so.
- (b) Initial Consent Presumed.
 - (1) A Person with Facilities in the Public Right-of-Way on the effective date of this Chapter, and who either
 - (A) is subject to jurisdiction by the PUCO;
 - (B) has a valid franchise agreement with the City to provide Cable Services or other Services in the City, and/or
 - (C) is any other Person who lawfully Occupies the Public Right-of-Way on the effective date of this Chapter shall be presumed to have initial consent of the City to Occupy or use the Public Right-of-Way
 - (2) Initial presumed consent for Occupancy or Use of the Public Right-of-Way is limited to the location of the existing Service or Private Service Provider's Facilities.
 - (3) A public utility subject to the jurisdiction of the PUCO and in compliance with state and federal laws and regulations shall be exempt from a requirement to obtain consent for activities related to those authorized under its tariff issued by the State of Ohio and regulated by PUCO.
 - (4) A Public Utility operating under its tariff under the State of Ohio and within the services authorized by that tariff shall be exempt from this Section only for that public utility's tariff related activities.

- (c) Application for Consent to Occupy or Use Public Right-of-Way.
- (1) The following Persons shall apply to the City for consent to Occupy or Use the Public Right-of-Way on a form provided by the City Manager; any Person who:
 - (A) Does not currently have existing Facilities in the City's Public Right-of-Way and desires to Construct new Facilities or Private Facilities in the Public Right-of-Way;
 - (B) Has existing Facilities or Private Facilities in the Public Right-of-Way on the effective date of this Chapter and does not have presumed initial consent under Section 937.02(b)(1) above; or
 - (C) Has initial presumed consent or City consent to Occupy or Use the Public Right-of-Way for an existing System, Facilities or Private Facilities, but is planning to expand services beyond those provided for in the tariff of a Public Utility issued by the State of Ohio.
 - (D) Is building a new subdivision or project which will offer Public Right-of-Way to the City at some time in the future.
 - (2) The application shall include the following information with respect to the applicant's planned or existing Facilities in the Public Right-of-Way whether they are subsurface, surface, or aerial facilities as well as plans for any planned Capital Improvements for the following twelve (12) months:
 - (A) The identity, legal status and federal tax identification number of the applicant, including all Affiliates of the applicant that will Use or Occupy the Public Right-of-Way or are in any way responsible for Services provided through the Facilities in the Public Right-of-Way.
 - (B) The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the application and available at all reasonable times to be notified in case of emergency.
 - (C) A description of the existing or proposed Facilities in the City's Right-of-Way, all in sufficient detail to identify: (i) the location and route of the applicant's or Service Provider's facilities or proposed facilities; (ii) the location of all existing, overhead or underground facilities in the Public Right-of-Way and the route or proposed route of the applicant's or Service Provider's Facilities or Proposed Facilities that is sufficient to show the impact of the applicant's Facilities on other existing Facilities; (iii) the location of all known overhead and underground Utility Easements.
 - (D) A description of the type of transmission medium used, or to be used, by the applicant to provide such Services.
 - (E) Engineering plans, specifications and a network map of the applicant's Facilities located, or to be located, in the City's Public Right-of-Way, all in sufficient detail to identify (where needed for

security purposes, these items shall be kept by provider subject to inspection by qualified personnel):

- (i) the location, route, and depth or height of the applicant's Facilities or proposed Facilities on a "to scale" drawing established using State Plane Coordinates and including all information requested in this section.
 - (ii) the location of all known overhead and underground public utility, utility, telecommunications, cable, water, sanitary sewer, storm water drainage and other existing Facilities in the Public Right-of-Way along the route or proposed route of the applicant's Facilities or proposed Facilities that is sufficient to show the impact of the applicant's Facilities on other existing Facilities.
 - (iii) the location of all known overhead and underground Utility Easements.
- (F) A preliminary Construction or installation schedule and completion date for all Capital Improvements planned for the twelve (12) month period following the date of application.
- (G) If the applicant is providing Services in the City:
- (i) A description of the applicant's access and line extension policies.
 - (ii) The area or areas of the City in which the applicant is currently serving and a schedule for build-out of the entire area addressed by the Permit, if applicable. **This section does not apply to Micro-wireless Facilities**
- (H) Evidence that the applicant has complied, or will comply, with indemnification, Insurance, Performance Bond and Construction Bond requirements of this Chapter.
- (I) Information sufficient to determine that the applicant has received any certificate of authority required by the PUCO to provide Services or Facilities in the City.
- (3) The City shall grant or deny, in writing, a Person's application for consent to Occupy or Use the Public Right-of-Way within sixty (60) days of the date on which the Person files the complete application with the City.
- (A) The City may withhold, deny or delay its consent to a Person's application to Occupy or Use the Public Right-of-Way based on the Person's failure to possess the financial, technical and managerial resources necessary to protect the public health, safety and welfare.
 - (B) If the City denies a Person's application to Occupy or Use the Public Right-of-Way, the City shall provide its reasons for denying the application, and shall provide any information that the Person may reasonably request necessary for the Person to obtain the City's consent to Occupy or Use the Public Right-of-Way.

- (4) The City's grant of consent for a Person to Occupy or Use the Public Right-of-Way shall be in the form of a Right-of-Way Occupancy Certificate which shall set forth the specific terms of the City's consent for such Person to Occupy or Use the Public Right-of-Way.
- (5) Each Person submitting an application for Consent to Occupy or Use the Public Right-of-Way shall pay a fee equal to the fee necessary to obtain a new building permit in the City of Kent, OH.
- (d) Application to Existing Franchise Ordinances and Agreements. For purposes of this Chapter, a franchise ordinance or agreement shall be deemed consent authorizing the Franchisee's Occupancy or Use of the Public Right-of-Way to the extent described in the franchise agreement or ordinance. The Franchisee's use of the Public Right-of-Way beyond that authorized by the franchise agreement or ordinance shall require additional consent for such additional Occupancy or Use. Franchisees shall comply with the Registration provisions and Construction Standards to the extent that the provisions of this Chapter do not directly conflict with the franchise agreement or ordinance. If there is a direct conflict between the franchise agreement or ordinance and the provisions of this Chapter, the franchise agreement or ordinance shall control.
- (e) Service Provider Insurance. As a condition of the consent to Occupy or Use the Public Right-of-Way, a Service Provider must secure and maintain, at a minimum, the following liability insurance policies insuring both the Service Provider and the City, and its elected and appointed officers, officials, agents, employees and representatives as additional insureds:
- (1) Comprehensive general liability insurance with limits not less than
 - (A) Five Million Dollars (\$5,000,000) for bodily injury or death to each Person;
 - (B) Five Million Dollars (\$5,000,000) for property damages resulting from any one accident; and
 - (C) Five Million Dollars (\$5,000,000) for all other types of liability.
 - (2) Automobile liability for owned, non-owned and hired vehicles with a limit of Three Million Dollars (\$3,000,000) for each Person and Three Million Dollars (\$3,000,000) for each accident.
 - (3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000).
 - (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than Three Million Dollars (\$3,000,000).
 - (5) The liability insurance policies required by this Section shall be maintained by the Service Provider throughout the period of time during which the Service Provider is Occupying or Using the Public Right-of-Way, or is engaged in the removal of its Facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled

nor the intention not to renew be stated until ninety (90) days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew.”

- (6) Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the Service Provider shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.
- (7) Upon written application to, and **written approval by the City Manager**, a Service Provider may be self-insured to provide all of the same coverages as listed in this Section; except that all coverages for Worker’s Compensation shall be in compliance with State law. No approval for self-insurance shall be given until the City Manager has made a complete review of the Service Provider’s financial ability to provide such self-insurance. As part of the review process, the City Manager may require, and the self-insurance applicant shall provide, any and all financial documents necessary to make a valid determination of the applicant’s ability to meet the needs of this Chapter.
- (8) A Public Utility subject to jurisdiction of the PUCO and operating under its tariff that has established a self-insurance fund that complies with the laws and regulations of the State of Ohio shall satisfy this requirement by simply providing information to the City Manager relating to such self-insurance fund and the appropriate contact point for matters relating to that fund.

(f) General Indemnification. Each applicant for consent to Occupy or Use the Public Right-of-Way, and each annual registration, shall include, to the extent permitted by law, the Service Provider’s express undertaking to defend, indemnify and hold the City and its elected and appointed officers, officials, employees, agents, representatives and subcontractors harmless from and against any and all damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the Service Provider or its Affiliates, officers, employees, agents, contractors or subcontractors in the Construction, Reconstruction, installation, operation, maintenance, repair or removal of its Facilities, and in providing or offering Services over the Facilities or System, whether such acts or omissions are authorized, allowed or prohibited by this Chapter.

(g) Performance Bond or Security Fund. As a condition of consent to Occupy or Use the Public Right-of-Way, and to ensure the full and complete compliance with, and performance under, this Chapter, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the Service Provider to comply with the codes, ordinances, rules, regulations or permits of the City, each Service Provider shall, in the amount of Fifty Thousand Dollars

(\$50,000) or such lesser amount as the City Manager may determine to be necessary (i) establish a permanent security fund with the City Manager depositing the required amount in cash, an unconditional letter of credit, or other instrument acceptable to the City, or (ii) furnish and file with the City a Performance Bond running to the City in the required amount from a company licensed to do business in the State of Ohio; which Performance Bond or security fund shall be maintained at the sole expense of the Service Provider so long as any of the Service Provider's Facilities are located within the Public Right-of-Way, Easements or other City owned properties, of the City. **This section does not apply to micro-wireless facilities.**

- (1) Before claims are made against the Performance Bond or any sums are withdrawn from the security fund, the City shall give written notice to the Service Provider:
 - (A) describing the act, default or failure to be remedied, or the damages, cost or expenses which the City has incurred by reason of the Service Provider's act or default;
 - (B) providing a reasonable opportunity for the Service Provider to first remedy the existing or ongoing default or failure, if applicable;
 - (C) providing a reasonable opportunity for the Service Provider to pay any monies due the City before the City makes a claim against the Performance Bond or withdraws the amount from the security fund, if applicable;
 - (D) that the Service Provider will be given an opportunity to review the act, default or failure described in the notice from the City Manager.**
- (2) Service Providers shall maintain the full value of the Performance Bond regardless of claims against the Performance Bond made by, or paid to, the City; or shall replenish the security fund within fourteen (14) days after written notice from the City that there is a deficiency in the amount of the fund, whichever is applicable.
- (3) A Public Utility operating under a tariff issued by the State of Ohio and regulated by the PUCO and in compliance with PUCO regulations concerning insurance, shall be exempt from any provision regarding a performance bond or security fund for all tariff related activities.

937.03 ANNUAL REGISTRATION OF SERVICE PROVIDERS.

- (a) **Annual Registration Required.** All Service Providers with consent to Occupy or Use the Public Right-of-Way as provided in Section 937.02 shall register with the City each calendar year between January 1 and January 31 on a form provided by the City Manager. Service Providers who file initial registration after July, 2006 but before January 1, 2007, need not file an annual registration for calendar year 2007. Public Utilities operating under a tariff issued by the State of Ohio and regulated by the PUCO shall not be required to file a registration for tariff related activities other than filing a copy of their state tariff and their summary one year capital plan as set forth in the Ordinance.

- (b) Purpose of Registration. The purpose of registration under this Section 937.03 is to:
- (1) Update and supplement the City's database so that the City has accurate and current information concerning the Service Providers that own or operate Facilities, and/or provide Services, in the City's Public Right-of-Way;
 - (2) Assist the City in monitoring the usage of the Public Right-of-Way in order to ensure that the public receives the maximum possible benefit from that use and the use is consistent with the best management and care of the Public Right-of-Way;
 - (3) Assist the City in the collection and enforcement of any municipal taxes, franchise fees, compliance fees or charges that may be due the City;
 - (4) Assist the City in monitoring compliance with local, State and federal laws.
- (c) Information Required for Registration. Registration forms will be provided by the City and shall require the following information:
- (1) Any material changes to the information the Service Provider provided the City in the application for consent to Occupy or Use the Public Right-of-Way, including, but not limited to:
 - (A) The identity, legal status, and federal tax identification number of the Service Provider, including any Affiliates.
 - (B) The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the Service Provider's registration statement and available at all reasonable times to be notified in case of emergency.
 - (2) Evidence that the Service Provider is in compliance with the Insurance, Indemnity and Performance Bond requirements pursuant to Sections 937.02(e), (f) and (g) of this Chapter.
 - (3) A description of, and a preliminary Construction or installation schedule and completion date for, any Capital Improvements the Service Provider plans in the City's Public Right-of-Way for the twelve (12) months following the date of registration, including:
 - (A) As soon as available, a current "to scale" map or drawing that clearly locates all the proposed Capital Improvements, including horizontal and vertical information; Facility type, size, depth, and capacity; and other such relevant information. If a "to scale" map is not available, the registrant shall supply as much of the required information as is currently available, but in no event shall the description of the proposed Capital Improvement be less than by City quadrant and/or street name and Facility type. The Service Provider shall update all required information as soon as it becomes available. Should the Service Provider fail to comply with this section in a timely manner, they shall not be permitted to

- occupy the City's Right-of-Way.
- (B) A general description of the Service that the Service Provider intends to offer or provide over the proposed Facilities within the City. Where a Service will be provided by a non-affiliated provider the Service Provider shall identify that provider.
 - (C) Information sufficient to determine that the Service Provider has applied for and received any certificate of authority required by PUCO to provide Services or Facilities within the City.
 - (D) Information sufficient to determine that the Service Provider has applied for and received any construction permit, operating license, certification, or other approvals required by the Federal Communications Commission to provide telecommunications or Cable Services or Facilities within the City.
- (4) Such other information as the City Manager may reasonably require.
- (d) Facilities Maps. The City shall have the right to access and review the Service Providers' maps and/or as-built plan showing the location of their facilities in the City's Right-of-Way upon ten (10) days notice to the Service Providers. Public Utilities operating under a tariff issued by the State of Ohio and regulated by the PUCO and for tariff related activities will only be required to assist the City in requesting design tickets and other information in accordance with OUPS and PUCO regulations. In emergency situations, access should be granted as soon as possible.
 - (e) Registration to be Kept Current. In addition to the annual registration requirement, each Service Provider shall keep all required registration information current at all times and shall provide the City with notice of changes to the required information with fifteen (15) days following the date on which the Service Provider has notice of such change.
 - (f) Registration Fee. Each Service Provider, except as provided in Section 937.09, shall pay an annual registration fee as determined by the City Manager to reimburse the City for its administrative costs related to maintaining annual registration and as provided in Section 937.08.

937.04 GENERAL PUBLIC RIGHT-OF-WAY USE REGULATIONS.

- (a) Public Right-of-Way Route. Consent granted to a Service Provider to Occupy or Use the Public Right-of-Way under Section 937.02 shall be limited to a grant to Occupy or Use the specific Public Right-of-Way and defined portions thereof.
- (b) Nonexclusive Consent to Occupy the Public Right-of-Way. No consent granted under Section 937.02 shall confer any exclusive right, privilege, license or franchise to Occupy or Use the Public Right-of-Way of the City for delivery of Services or any other purposes.
- (c) Rights Permitted. No consent granted under Section 937.02 shall convey any

right, title or interest in the Public Right-of-Way, but shall be deemed a consent only to Occupy or Use the Public Right-of-Way for the limited purposes granted by the consent. Further, no consent shall be construed as any warranty of title. This Section shall not affect the right to occupy the Public Right-of-Way granted to Public Utilities in connection with the tariff issued by the State of Ohio and regulated by the PUCO, said consent to occupy the Public Right-of-Way having been granted to such Public Utility by the State of Ohio, subject to only local regulation of matters of local concern.

- (d) Nondiscrimination. A Public Service Provider providing Service to the public in the City shall make its Services available to any customer within the designated service area who shall request such Service, without discrimination as to the terms, conditions, rates or charges for the Public Service Provider's Services; provided, however, that nothing in this Section 937.05 shall prohibit a Public Service Provider from making any reasonable classifications among differently situated customers.
- (e) Maintenance of Facilities. Each Service Provider shall maintain its Facilities in good and safe condition and in a manner that complies with all applicable federal, State and local requirements.
- (f) Safety Procedures. A Service Provider or other Person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as necessary and in accordance with applicable State and local requirements. A Maintenance of Traffic Plan needs to be submitted, and approved by the City, prior to commencing work.
- (g) Interference with the Public Right-of-Ways. No Service Provider may locate or maintain its Facilities so as to unreasonably interfere with the use of the Public Right-of-Way by the City, by the general public or by other Persons authorized to use or be present in or upon the Public Right-of-Way. All such Facilities shall be moved by the Service Provider, temporarily or permanently, as determined by the City Manager.
- (h) Damage to Public and Private Property. No Service Provider nor any Person acting on the Service Provider's behalf shall take any action or permit any action to be done which may impair or damage any City Property, Public Right-of-Way, Other Ways or other public or private property located in, on or adjacent thereto.
- (i) Restoration of Public Right-of-Way, Other Ways and City Property.
 - (5) When a Service Provider, or any Person acting on its behalf, does any work in or affecting any Public Right-of-Way, Other Ways or City Property, it shall, after the work is completed and at its own expense, promptly remove any obstruction therefrom and restore such ways or property, within sixty (60) days, to as good condition as existed before the

- work was undertaken, unless otherwise directed by the City.
- (6) If weather or other conditions do not permit the complete restoration required by this Section, the Service Provider shall temporarily restore the affected ways or property. Such temporary restoration shall be at the Service Provider's sole expense and the Service Provider shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
- (j) Duty to Provide Information.
- (1) Within ten (10) days of a written request from the City Manager each Service Provider shall furnish the City with documentation sufficient to show that the Service Provider has complied with all requirements of this Chapter.
- (2) In addition, within ten (10) days of a written request from the City Manager, each Service Provider shall make available for inspection by the City at reasonable times all books, records, maps and other documents, maintained by the Service Provider with respect to its Facilities in the Public Right-of-Way.
- (k) Leased Capacity. A Service Provider shall have the right, without prior City approval, to offer or provide capacity or bandwidth to its customers, provided:
- (1) The Service Provider shall furnish the City with a copy of any such lease or agreement.
- (2) The customer or lessee has complied, to the extent applicable, with the requirements of this Chapter.
- (3) The service does not interfere with the City of Kent's public safety communications equipment and transmissions, and complies with all Federal Communication Commission regulations.
- (l) Assignments or Transfers of Consent. Consent to Occupy or Use the Public Right-of-Way may be, except as to Public Utilities operating under a tariff issued by the State of Ohio and regulated by the PUCO, directly or indirectly, transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the Service Provider, by operation of law or otherwise, without consent of the City, so long as:
- (1) The City is notified or the proposed transfer on or before the date of transfer; and
- (2) The transferee shall fully comply with this Chapter within sixty (60) days of the transfer, including, but not limited to:
- (A) All information required by the application for consent to Occupy or Use the Public Right-of-Way pursuant to Section 937.02, and/or Registration required by Section 937.03 of this Chapter; and
- (B) Any other information reasonably required by the City Manager.
- (m) Transactions Affecting Control of Consent. Except as to any Public Utilities

operating under a tariff by the State of Ohio and regulated by the PUCO, any transactions that singularly or collectively result in a change of twenty-five percent (25%) or more of the ownership or ultimate working control of a Service Provider, of the ownership or working control of the Service Provider's Facility, or of control of the capacity or bandwidth of the Service Provider's System, Facilities or substantial parts thereof, shall be considered an assignment or transfer pursuant to Section 937.04(l) hereof. Transactions between Affiliated entities are not exempt from Section 937.04(l).

- (n) Revocation of Consent. Consent granted by the City to Occupy or Use Public Right-of-Way of the City maybe revoked, except as to Public Utilities operating under a tariff by the State of Ohio and regulated by the PUCO, for any one of the following reasons:
- (1) Construction, Reconstruction, installation, location, operation or Excavation at an unauthorized location.
 - (2) Construction, Reconstruction, installation, location, operation or Excavation in violation of City safety and/or Construction requirements.
 - (3) Material misrepresentation or lack of candor by or on behalf of a Service Provider in any Permit application or registration required by the City.
 - (4) Abandonment of Facilities in the Public Right-of-Way.
 - (5) Failure to relocate or remove Facilities or failure to restore the Public Right-of-Way, as required by this Chapter.
 - (6) Failure to pay fees, costs, taxes or compensation when and as due the City.
 - (7) Insolvency or bankruptcy of the Service Provider.
 - (8) Violation of material provisions of this Chapter.
- (o) Notice and Duty to Cure. In the event that the City Manager believes that grounds exist for revocation of consent to Occupy or Use the Public Right-of-Way or Construction Permit, he shall give the Service Provider written notice of the apparent violation or noncompliance, and providing the Service Provider a reasonable period of time not exceeding thirty (30) days to furnish evidence:
- (1) That corrective action has been, or its being actively and expeditiously pursued, to remedy the violation or noncompliance;
 - (2) That rebuts the alleged violation or noncompliance; and/or
 - (3) That it would be in the public interest to impose some penalty or sanction less than revocation.
- (p) If a micro-wireless facility is placed on a wireless support structure as defined by the Ohio Revised Code the increased height would be not more than ten (10) feet or the overall resulting height would be not more than fifty (50) feet.
- (q) In addition, general regulations that protect the health, safety and welfare of the residents and visitors of Kent, apply to work performed in the City's Right-of-Way, and to any structures and poles located within the City's Right-of-Way.

937.05 LOCATION, RELOCATION AND REMOVAL OF FACILITIES.

- (a) Location of Facilities. All Facilities shall be Constructed, Reconstructed, installed and located in accordance with the following terms and conditions:
- (1) Whenever possible, according to acceptable engineering standards and consistent with Federal and State law regarding safety and other operations, Facilities shall be installed within an existing compatible underground duct or conduit whenever Excess Capacity exists within such Facility.
 - (2) A Service Provider and a Public Utility operating under a tariff issued by the State of Ohio and regulated by the PUCO with permission to install Overhead Facilities shall install their Facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
 - (3) Whenever any existing electric, cable, telecommunications or other similar Facilities are located underground in a Public Right-of-Way of the City, a Service Provider with permission to Occupy the same Public Right-of-Way with electric, cable, telecommunications or other similar Facilities, must also locate the Facilities underground.
 - (4) Except for Overhead Facilities as provided herein, other than a Public Utility operating under a tariff issued by the State of Ohio and regulated by the PUCO, no Facility shall be located above ground in a Public Right-of-Way without the express written permission of the City Manager.
 - (5) Except for Overhead Facilities as provided herein, no Facilities shall be located above ground in a Public Right-of-Way, subject to the above items.
 - (6) The City reserves the right to require a Service Provider to provide Excess Capacity in the Public Right-of-Way at the time of Construction, Reconstruction, installation, location or relocation of Facilities.
 - (7) Micro-wireless facilities as described in ORC Section 4939.01 may be attached to utility poles and wireless support structures owned by the City of Kent. There shall be an annual fee of \$200.00 due the City for each such attachment. Said fees shall be due and payable at the time of attachment to the City structures and in each succeeding January thereafter in which the attachment remains affixed .
- (b) Excess Capacity. To reduce Excavation in the Public Right-of-Way, it is the City's goal to encourage Service Providers to share occupancy of underground conduit as well as to construct, whenever possible, excess conduit capacity for occupancy of future Facilities in the Public Right-of-Way when it does not increase the costs to the Service Provider installing the line. Therefore, if a Service Provider is constructing underground conduit in the Public Right-of-Way for its own Facilities, and the City and the Provider reasonably determine such construction is in an area in which other Service Providers would likely construct Facilities in the future, the City may ask the Service Provider to review the feasibility at constructing the conduit in the Public Right-of-Way with Excess Capacity.

- (c) City Owned Conduit. If the City owns or leases conduit in the path of a Service Provider's proposed Facilities, and provided it is technologically feasible for the Service Provider's Facilities to Occupy the conduit owned or leased by the City and easier for the Service Provider than installing their own conduit, the Service Provider may Occupy the conduit owned or leased by the City in order to reduce the necessity to Excavate the Public Right-of-Way. The Service Provider shall pay to the City a fee for such occupancy which shall be the cost the Service Provider would have expended to construct its own conduit, as certified by the Service Provider's engineer and approved by the City Engineer. The City and the Service Provider may agree to amortize the fee through annual payments to the City.
- (d) Relocation or Removal of Facilities. Within one hundred twenty (120) days following written notice from the City, a Service Provider shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Facilities in the Public Right-of-Way whenever the City shall have determined that such removal, relocation, change or alteration is reasonably necessary for:
- (1) The Construction, Reconstruction, repair, maintenance or installation of any City or other public improvement in or upon a Public Right-of-Way, easement, or other City owned properties.
 - (2) The operations of the City or other governmental entity in or upon a Public Right-of-Way, easement, or other City owned properties.
 - (3) With regard to the expense of such removal of a relocation, the standard for reimbursement to the Service Provider for such expense shall be in accordance with State law and regulations of the PUCO.
- (e) Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the City, any Service Provider or other Person that owns, controls or maintains any unauthorized System, Facility or related appurtenances in the Public Right-of-Way of the City shall, at its own expense, remove those Facilities or appurtenances from the Public Right-of-Way of the City or shall arrange to sell those Facilities or appurtenances to the City if the City wishes to purchase them. After the thirty (30) days have expired, the City may remove the Facilities or appurtenances from the Public Right-of-Way at the other party's expense. A System or Facility is unauthorized and subject to removal in the following circumstances:
- (1) Upon revocation of the Service Provider's consent to Occupy or Use the Public Right-of-Way;
 - (2) Upon abandonment of a Facility in the Public Right-of-Way of the City;
 - (3) If the System or Facility was Constructed, Reconstructed, installed, operated, located or maintained without the consent to do so, except as otherwise provided by this Chapter.
 - (4) If the System or Facility was Constructed, Reconstructed, installed,

- operated, located or maintained, or any Excavation of a Public Right-of-Way was performed, without prior issuance of a required Construction Permit, except as otherwise provided by this Chapter;
- (5) If the System or Facility was Constructed, Reconstructed, installed, operated, located or maintained, or any Excavation of a Public Right-of-Way was performed, at a location not permitted pursuant to the City's consent to Occupy or Use the Public Right-of-Way or Construction Permit;
 - (6) If the Service Provider fails to comply with the Registration requirements of Section 937.03 of this Chapter.
 - (7) The removal is approved by the Ohio PUCO.

937.06 NOTICE OF WORK, ROUTINE MAINTENANCE AND EMERGENCY WORK.

- (a) Notice of Work. Except in case of Emergency, as provided in Section 937.06(c), or for Routine Maintenance as provided in Section 937.06(b) and new service orders as provided in 937.06, no Service Provider, nor any Person acting on the Service Provider's behalf, shall commence any work in the Public Right-of-Way of the City or Other Ways without twenty-four (24) hours advance notice to the City, obtaining a Construction Permit pursuant to Section 937.07, if required, and obtaining consent to Occupy or Use the Public Right-of-Way pursuant to Section 937.02, if required.
- (b) Routine Maintenance and New Service Orders.
 - (1) A Service Provider is required to obtain a permit or notify the City prior to commencing any Routine Maintenance or New Service Orders.
 - (2) For Routine Maintenance and New Service Orders that require the Service Provider to cause a Lane Obstruction in a Public Street for more than eight (8) hours, the Service Provider shall contact the Community Development Department to coordinate traffic flow in the area of the service being conducted.
- (c) Emergency Work. In the event of the need for any unexpected repair or Emergency work, a Service Provider may commence such Emergency response work as required under the circumstances, provided that for Emergency work that requires Excavation of a Public Right-of-Way or Lane Obstruction or closing of a Public Street, the Service Provider shall notify the City as promptly as possible before commencing such Emergency work, or as soon as possible thereafter if advance notice is not practicable. When notice is required, the Service Provider shall notify by e-mail, telephone or fax, the Chief of Police and the Community Development Department during regular business hours, or the Police Department Dispatchers at all other times.

937.07 CONSTRUCTION PERMIT AND STANDARDS.

(a) Construction Permit.

- (1) No Construction Permit is required for Routine Maintenance and New Service Order that do not include Excavation in a **Public Right-of -Way.**
- (2) No Person shall commence or continue with the Construction, Reconstruction, installation, maintenance or repair of Facilities or Excavation in the Public Right-of-Way without obtaining a Construction Permit from the Community Development Director or his/her designee as provided in the Section 937.07, including but not limited to the following circumstances:
 - (A) The extension of a Service Provider's Facility in the Public Right-of-Way, easement or other City owned properties, in an area of the City not currently serviced by that Service Provider. This does not include New Service Orders unless a **Public Right-of-Way** will be Excavated;
 - (B) The relocation or replacement of more than two hundred (200) lineal feet of a Service Provider's existing Facilities in the Public Right-of-Way;
 - (C) Any Reconstruction or replacement of Facilities requiring more than one (1) working day to complete work in the Public Right-of-Way;
 - (D) Any Construction, Reconstruction, installation, maintenance, repair or New Service Orders in the Public Right-of-Way requiring more than one (1) working day to complete; or
 - (E) Any Construction, Reconstruction, installation, maintenance, repair or New Service Order requiring the Excavation of a Public Street.
- (3) No Construction Permit shall be issued for the Construction, Reconstruction, installation, maintenance or repair of Facilities, or Excavation, in the Public Right-of-Way unless the Service Provider has obtained consent from, and filed a current registration statement with, the City pursuant to Section 937.02 and Section 937.03, respectively, of this Chapter.

(b) Construction Permit Applications. Applications for permits to Construct, Reconstruct or install Facilities, or Excavate, shall be submitted upon forms provided by the City, provide the following information, if applicable, and be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That the Facilities will be Constructed, Reconstructed, installed, maintained or repaired, or the Public Right-of-Way Excavated, in accordance with all applicable codes, rules and regulations.
- (2) If the applicant is proposing to Construct, Reconstruct, install, maintain, repair or locate Facilities above ground:
 - (A) evidence that Surplus Space is available for locating its Facilities

- on existing utility poles along the proposed route;
 - (B) the location and route of all Facilities to be located or installed on existing utility poles.
 - (3) If the applicant is proposing an underground installation of new Facilities in existing ducts, pipes or conduits in the Public Right-of-Way, information in sufficient detail to identify:
 - (A) the Excess Capacity currently available in such ducts or conduits before the installation of the applicant's Facilities.
 - (B) the Excess Capacity, if any, that will exist in such ducts or conduits after installation of the applicant's Facilities.
 - (4) If the applicant is proposing an underground installation of new Facilities in new ducts or conduits to be Constructed in the Public Right-of-Way:
 - (A) the location and depth proposed for the new ducts or conduits; and
 - (B) the Excess Capacity that will exist in such ducts or conduits after installation of the applicant's Facilities.
 - (5) The location and route of all Facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are in the Public Right-of-Way. Included with the installation shall be magnetic and fluorescent tape placed at a minimum of one foot to a maximum of two (2) feet above the entire Facility as installed for the purpose of locating the Facility during future Construction activities. The tape shall be marked with the tape of Facility installed as approved by the City.
 - (6) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations that are in the Public Right-of-Way along the underground route proposed by the applicant.
 - (7) The location(s), if any, for interconnection with the Facilities of other Service Providers.
 - (8) The construction methods to be employed for protection of existing structures, fixtures and Facilities in or adjacent to the Public Right-of-Way.
 - (9) The structures, improvements, Facilities and obstructions, is any, that the applicant proposes to temporarily or permanently remove or relocate.
 - (10) The impact of Construction, Reconstruction, installation, maintenance or repair of Facilities on trees in or adjacent to the Public Right-of-Way along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas disturbed during Construction.
 - (11) Information to establish that the applicant has obtained all other governmental approvals and permits to Construct and operate the Facilities and to offer or provide the Services.
- (c) Construction Codes. Facilities shall be Constructed, Reconstructed, installed, repaired, operated, Excavated and maintained in accordance with all applicable federal, State and local codes, rules and regulations including, but not limited to,

the National Electric Safety Code.

- (d) Traffic Control Plan. All Permit applications which involve a Lane Obstruction or work on, in, under, across or along any Public Right-of-Way shall be presented to the Chief of Police of the City and coordinated to maintain possible traffic control consistent with State law and the ODOT Uniform Manual of Traffic Control Devices.
- (e) Issuance of Permit. Within thirty (30) days after submission of all plans and documents required of the applicant, the City Manager, if satisfied that the applications, plans and documents comply with all requirements of this Chapter, shall issue a Construction Permit authorizing the Construction, Reconstruction, installation, maintenance or repair of the Facilities, or Excavation in the Public Right-of-Way, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the City Manager may deem necessary or appropriate. Such thirty (30) day period shall begin after all submissions are deemed by the City Manager to be in accordance with the requirements of, including information submitted in the form required by, this Chapter.
- (f) Coordination of Construction Activities. All Service Providers are required to cooperate with the City, including its Service and Safety forces, and with each other. All Construction, Reconstruction, installation, Excavation, activities and schedules shall be coordinated, as ordered by the City Manager, to minimize public inconvenience, disruption or damages.
- (g) Construction Schedule. The Service Provider may modify the Construction Schedule at any time provided that notice is given to the City Manager. The Service Provider shall further notify the Ohio Utility Protection Services (OUPS) in advance of any excavation or work in the Public Right-of-Way.
- (h) Least Disruptive Technology. All Facilities shall be Constructed, Reconstructed, installed, maintained or repaired in the manner resulting in the least amount of damage and disruption of the Public Right-of-Way. Unless otherwise authorized by the City Manager for good cause, Service Providers Constructing, Reconstructing, installing, maintaining or repairing Underground Facilities shall utilize Trenchless Technology, including, but not limited to, horizontal drilling, directional boring, and microtunneling, if technically and/or technologically feasible. In addition, all cable, wire or fiber optic cable Facilities to be installed underground shall be installed in conduit, without using "direct bury" techniques.
- (i) Micro-Wireless Facility includes small cell facilities and distributed antenna systems in which each antenna is located inside an enclosure of not more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

- (j) Compliance with Permit. All Construction practices and activities shall be in accordance with the Construction Permit and approved final plans and specifications for the Facilities. The City Manager shall be provided access to work and such further information as he or she may require to ensure compliance with such requirements. Field changes may be approved by the City Manager if such changes are determined to be necessary due to site conditions or other changed circumstances.
- (k) Display of Permit. The Service Provider shall maintain a copy of the Construction Permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Manager at all times when construction work is occurring.
- (l) Survey of Underground Facilities. If the Construction Permit specifies the location of Facilities by depth, line, grade, proximity to other Facilities or other standard, the Service Provider shall cause the location of such Facilities to be verified by a registered Ohio land surveyor. The Service Provider shall relocate any Facilities that are not located in compliance with Permit requirements.
- (m) Noncomplying Work. Upon order of the City Manager, all work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall immediately cease and shall be immediately removed and/or corrected by the Service Provider.
- (n) Completion of Construction. The Service Provider shall promptly complete all Construction activities so as to minimize disruption of the Public Right-of-Way and other public and private property. All Construction work authorized by a Permit in the **Public** Right-of-Way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance. Extensions are approved by the Director of Community Development.
- (o) Record Drawings. Within sixty (60) days after completion of Construction, the Service Provider shall furnish the City with two (2) complete sets of plans, drawn to scale and certified to the City as accurately depicting the location of all Facilities Constructed pursuant to the Permit. At such time, the Service Provider shall submit the Record Drawings in a digital format compatible with the City's current computer software. Public Utilities operating under a tariff issued by the State of Ohio and regulated by the PUCO shall be exempt from this provision for all matters, as they are required to file with the State of Ohio, and the OUPS System. Such Public Utilities shall provide notice to the City that such records are available from OUPS upon completion of a project.
- (p) Restoration of Improvements. Upon completion of any Construction work, the Service Provider shall promptly repair any and all Public Right-of-Way and

provide property improvements, fixtures, structures and Facilities which were damaged during the course of Construction, restoring the same as nearly as practicable to its condition before the start of Construction.

(q) Landscape Restoration.

- (1) All trees, landscaping and grounds removed, damaged or disturbed as a result of the Construction, Reconstruction, installation, maintenance, repair or replacement of Facilities must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work.
- (2) All restoration work within the Public Right-of-Way shall be done in accordance with landscape plans approved by the City Manager or his/her designee.

(r) Construction and Completion Bond. Prior to issuance of a Construction Permit, the Service Provider shall provide a Construction Bond written by a corporate surety acceptable to the City equal to at least one hundred ten percent (110%) of the estimated cost of Constructing, Reconstructing, installing or repairing the Service Provider's Facilities or Excavation in the Public Right-of-Way of the City or such lesser amount as the City Manager may determine to adequately protect the City's interest, shall be deposited before Construction is commenced.

- (1) The Construction Bond shall remain in force until eighteen (18) months after substantial completion of the work, as determined by the City Manager, including restoration of Public Right-of-Way and other property affected by the Construction.
- (2) The Construction Bond shall guarantee, to the satisfaction of the City:
 - (A) timely completion of Construction;
 - (B) Construction in compliance with applicable plans, permits, technical codes and standards;
 - (C) proper location of the Facilities as specified by the City;
 - (D) restoration of the Public Right-of-Way and other property affected by the Construction;
 - (E) the submission of Record Drawings, in both written and digital format, after completion of the work as required by this Chapter; and
 - (F) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.
- (3) In lieu of filing a Construction Bond with the City for each Construction Permit, a Service Provider with the approval of the City Manager may file an Annual Construction Bond (or Annual Bond) in the form described above in an amount that the City Manager may determine will adequately protect the City's interests as described above.
- (4) Public Utilities operating under a tariff issued by the State of Ohio and regulated by the PUCO shall be exempt from any Construction Bond Requirements and shall be only required to notify the City of the

appropriate contact person for claims regarding Construction Activities in accordance with their self-insurance program as established pursuant to State law and Regulations. All Public way fees and costs recoveries provided for hereunder shall be consistent with Ohio Revised Code Section 4939.05, PUCO Regulations and decisions of the PUCO which require such costs to be prorated over all users of the Right-of-Way including users that are governmental entities, including but not limited to, the City itself.

- (s) Responsibility of Owner. The owner of the Facilities to be Constructed, Reconstructed, installed, located, operated, maintained or repaired and, if different, the Service Provider, are responsible for performance of and compliance with all provisions of this Section.

937.08 RECOVERY OF CITY COSTS IN MANAGING THE PUBLIC RIGHT-OF-WAY.

- (a) Purpose. It is the purpose of this Section 937.08 to provide for the recovery of all direct and indirect costs and expenses actually incurred by the City and associated with a Public or Private Service Provider's Occupancy or Use of the Public Right-of-Way and related to the enforcement and administration of this Chapter. All fees related to the Occupancy or Use of the Public Right-of-Way shall be assessed in a manner to be determined by the City Manager and shall comply with the requirements of O.R.C. 4939.05.
- (b) Regulatory Fees and Compensation Not a Tax. Except as required by the Ohio Revised Code, specifically O.R.C. 4939.05 and decisions of the Public Utilities Commission of Ohio, the regulatory fees and costs provided for in this Chapter are separate from, and additional to, any and all federal, State, local and City taxes as may be levied, imposed or due from a Service Provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of Services.

937.09 CABLE TELEVISION FRANCHISE.

- (a) Cable Television Franchise. Any Person who desires to Construct, Reconstruct, install, operate, maintain or locate Facilities in any Public Right-of-Way of the City for the purpose of providing Cable Service to Persons in the City shall first obtain a non-exclusive franchise to provide Cable Services from the City.
- (b) Compliance with Chapter Required. All Cable Operators providing Cable Service within the City pursuant to a valid franchise shall comply with the registration and Construction Permit requirements of this Chapter.
- (c) Cable Television Franchise Expiration.
 - (1) In the event a franchise expires by its terms, the franchise shall be automatically renewed on a month-to-month basis until the parties enter into a renewal franchise or until terminated by either party in accordance with law.

- (2) At the expiration of the franchise or upon revocation of the franchise, the City may, in lawful manner and upon the payment of fair market value, determined on the basis of the Cable System as valued as a going concern exclusive of any value attributable to the franchise itself, lawfully obtain, purchase, condemn, acquire, takeover and hold the Cable System.
- (d) Cable System Capacity. No Cable Operator shall provide Service other than Cable Service without obtaining consent from the City, pursuant to Section 937.02 of this Chapter, which consent shall not be unreasonably withheld.

937.10 PRIVATE FACILITIES IN THE PUBLIC RIGHT-OF-WAY.

- (a) Private Facilities. Persons who wish to use the Public Right-of-Way of the City for Private Facilities shall obtain a consent from the City pursuant to Section 937.02, register pursuant to Section 937.03, obtain a Construction Permit (if applicable) pursuant to Section 937.07 and comply with all provisions of this Chapter.

937.11 MISCELLANEOUS PROVISIONS.

- (a) Preemption by State and Federal Law. Except as may be preempted by applicable State and Federal laws, rates, regulations, and orders, this Chapter shall apply and be controlling over each Service Provider engaged in the business of transmitting, supplying or furnishing of Services originating, passing through, or terminating in the City.
- (b) Exemption for City-Owned or Operated Facilities. Nothing in this Chapter shall be construed to apply the provisions of this Chapter to Facilities owned or operated by the City or any of its operations.
- (c) [(c) Application to Existing Code Provisions. *Insert any existing City Code provisions to which this Chapter should not apply.*]
- (d) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.
- (e) It is within the City Manager's reasonable discretion to waive a portion of this Chapter or such requirements, in the City Manager's judgment, that are not necessary or appropriate to protect the City's interests and the purposes and intent of this Chapter.

937.99 PENALTIES AND OTHER REMEDIES.

- (a) Other Remedies. Nothing in this Chapter shall be construed as limiting any

judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.



**CRAIN'S
FAMILY BUSINESS FORUM**



**CRAIN CONTENT STUDIO
Cleveland**

SAVE THE DATE!
May 3, 2017

TITLE SPONSOR



CRAIN'S Cleveland Business

March 20, 2017 2:54 PM

Cities join forces to fight state law on wireless telephone antennas

By Jay Miller



Cities across the region are filing suit against a new state law that, the cities say, unconstitutionally, restricts their ability to regulate the next generation of wireless telephone antennas.

A lawsuit filed by the city of Cleveland on Monday, March 20, against the state of Ohio in Cuyahoga County Common Pleas court seeks to prevent the state from enforcing legislation passed at the end of December that would go into effect on Tuesday, March 21. A similar suit by 20 communities across the region was filed Friday, March 17, in Summit County Common Pleas Court.

"Our complaint challenges the constitutionality of S.B. 331," said Cleveland Mayor Frank Jackson at a news conference on Monday, referring to legislation passed in the waning days of the last legislative session.

"The Senate bill prevents the city from regulating the commercial installation of cell wireless equipment in our public right of way," Jackson said.

The cities believe the new law violates Ohio home rule rights, which grant municipalities the authority to adopt and enforce within their limits regulations that are not in conflict with what state law calls "general laws."

The cell tower rules were an amendment to S.B. 331, a bill introduced to regulate pet sales. Another amendment to the same bill prevents Cleveland and other cities from raising their minimum wage above the state minimum wage.

Cleveland's filing also challenges what Jackson called the "single subject rule," which says that legislation may contain no more than one subject, which must be clearly expressed in the title. That concept has not always been honored by the Ohio General Assembly.

Also at the news conference was Independence Mayor Anthony L. Togliatti. He said his community is one of 20, from five different Northeast Ohio counties, filing suit in a case in Summit County.

"In Independence, many of our business customers and residents chose to be in Independence based on the aesthetics of our community," he said. "To lose control of those aesthetics is very detrimental."

Togliatti said communities like his have committed to becoming more attractive by putting utilities underground in historic districts and in many subdivisions. He said that under this new law, cities can't deny a request to affix an antenna or put up a pole based on design, engineering or zoning consideration, even where no utility poles are currently allowed.

Jackson also pointed to the cost and administrative constraints the law imposes. It requires cities to approve or deny an application for new equipment, generally within 90 days of submission, and it caps application fees at \$250 per wireless attachment.

Jackson said Cleveland now charges \$750 to cover the cost of permitting and inspection.

Both lawsuits are headed for hearings in the weeks ahead.

In February, AT&T Ohio president Adam Grzybicki told Crain's the new micro cell technology is designed to meet the growing demand for high-speed wireless communications. Grzybicki said AT&T has seen a 250,000% increase in data traffic in Ohio since 2007.

These new micro cells, he said, provide additional wireless capacity and coverage to dense urban areas and to locations that are difficult to cover, like sparsely populated areas, with existing towers and antennas. They are part of the movement to the next generation of cellular transmission, called 5G.

None of the wireless companies are parties to the litigation.

Use of editorial content without permission is strictly prohibited. All rights Reserved 2017
www.crainscleveland.com

Next Century Cities

Blog Post

Thursday, February 2nd, 2017

Small Cells—What You Need to Know

Small cells are a new, innovative way to deliver high quality wireless service and are the first sign of where wireless technology is going: smaller antennas that are closer to the user. They are also used to extend internet access to previously unserved or underserved areas. Deploying small cells is an [attractive option](#) for urban and rural areas, as they are often significantly [less expensive and less disruptive to install](#) than larger macro cell sites. Small cells will likely be the best option for continuing to improve wireless access in urban areas without installing the larger antennas that are often opposed by local residents, but that doesn't mean local governments should be prohibited from safeguarding installation. Ensuring local control over the public right of way is particularly important for Next Century Cities' members, as the deployment of small cells is expected to increase in the coming years.

“Small cells” is an umbrella term used to describe [picocells](#), [femtocells](#), [microcells](#), and other [radio wave technology](#). Small cell networks are made up of a system of units that are often attached to fiber-optics at key access points, and use licensed and unlicensed spectrum to provide wireless service. They are often used by service providers to fill in capacity and coverage gaps in a network, or to provide increased bandwidth to specific blocks or neighborhoods.

Small cell units are generally connected to a fiber optic network. Once connected, a single unit can provide service for upwards of 30 access points in high-density areas, and can extend service to access points anywhere from 10 meters to over a kilometer away. Small cell units are comparable to a suitcase in size, and are usually attached to structures in the public right of way, such as utility poles, traffic lights, and street lights. However, they are still large enough to create the potential for safety and aesthetic concerns.

Some cities, like Boston, MA and Lincoln, NE, have successfully negotiated with service providers to facilitate the installation of small cells through mutually beneficial agreements. Although Boston's municipal government does not own the utility poles, it does have other structures, such as street lights, to which small cells can be attached. City leaders used this to their advantage, and entered into a deployment agreement with Verizon whereby the city makes its property easily accessible to Verizon in exchange for an increased city role in the types of poles and equipment Verizon uses. For example, once Boston officials agree to Verizon's design for a specific type of pole, Verizon can submit a list of locations to install it instead of having to go

through block-by-block reviews and public hearings for every installation. The city benefits from the ability to review locations in historic districts more closely, Verizon benefits from the the ability to more easily deploy attachments, and citizens benefit by receiving improved services more quickly.

Lincoln, which owns all the streetlights and a fiber conduit system throughout the city, also entered into a mutually agreeable contract with Verizon. In exchange for a speedy and simplified deployment process, Verizon will replace the street light poles with new poles and assume future maintenance of those poles. Verizon will extend fiber from the city's conduit system to the poles for the city's use, and reserve space on the poles where Lincoln can attach equipment such as cameras, public Wi-Fi antennas, or smart traffic sensors. Both Boston and Lincoln will continue to benefit from these relationships through the pole rental fees Verizon will continue to pay them, and from the continued improvements to mobile wireless coverage.

Boston and Lincoln are just two examples of the many ways cities can partner with private service providers to ensure that small cells are being deployed in ways that benefit both the community and the provider. Crucially, the cities designed these arrangements so that other small cell providers could get similar terms for deployment – meaning consumers stand to benefit from enhanced competition as well.



Advertisement

Small cell technology is large endeavor for state



February 12, 2017 UPDATED 11 HOURS AGO

SHARE

Government AT&T Economy, Business & Finance

By JAY MILLER

Ohio may be at the head of the pack for faster wireless telephone service in the months ahead, which is good news for people who stream video or businesses that have other high data demands.

However, getting there may upset a few neighborhood apple carts.

A bill whisked quietly through the state Legislature in December pre-empts much of the municipal control over where the next generation of small cell towers will go.

The move in Ohio is being led by AT&T Inc. AT&T Ohio president Adam Grzybicki said Ohio is one of the first states where the company is rolling out this latest equipment that will increase peak data speeds. The equipment, Grzybicki said, is necessary as wireless carriers move on to the next, fifth generation of wireless transmission, or 5G.

"This is an incredible opportunity to really position yourself as the first state to be talking about 5G technology on a really broad platform," Grzybicki said. "This isn't San Francisco or Silicon Valley, and it's not Manhattan. It's starting here. The fact that we are able to start deploying a lot of these services is a really big deal."

To that, Strongsville law director Neal M. Jamison said, "Lucky us."

Jamison said the city will prepare legislation to regulate and administer applications for the new cell devices. The new city regulations, though, will have to be consistent with the new state cell antenna law, a part of SB 331 signed by Gov. John Kasich as the legislative session was coming to an end in December.

The cell tower rules were a late, end-of-session amendment to a bill introduced to regulate pet sales. Another amendment to the same bill prevents Cleveland and other cities from raising their minimum wage above the state minimum wage. All of the bill's provisions become effective on March 21.

The legislation was pushed by the wireless industry, particularly AT&T. It's aimed at expediting the rollout of what are called "micro wireless" antennas that the carriers want to attach to light poles and traffic signals or on poles built in the public right of way. It requires cities to approve or deny an application for new equipment, generally within 90 days of submission, and it caps application fees at \$250 per wireless attachment.

The antennas also could be erected on private property.

Advertisement



These new micro cells, he said, provide additional wireless capacity and coverage to dense urban areas and to locations that are difficult to cover, like sparsely populated areas, with existing towers and antennas.

Grzybicki added that the benefits go beyond smart phone users being able to download movies or cat videos faster. With the added cells will come additional underground fiber that businesses need for their increasing data needs.

"Young, growing businesses already are on tablets and other devices to conduct their business," he said. "These new services will allow those devices to move data three or four times more quickly, making the businesses more efficient."

The cell tower amendment at first took more authority away from cities and included language that the Ohio Municipal League said would have given cities little control over placement of the towers.

The original language, according to a league analysis, would have given the carriers the right to attach their towers "to any structure capable of supporting it."

In a Nov. 28, 2016, letter to state legislative leaders, Cleveland Mayor Frank Jackson expressed opposition to the original legislative language. The letter stated that the proposed measure was "too broad and prevents local municipalities from having a say in rates, zoning and maintenance issues as it relates to wireless infrastructure."

The final bill limits somewhat the structures that the small cell antennas can be attached to, excluding water towers and power lines, and allows cities to reject applications when it sees health, safety, aesthetic and historic preservation concerns.

A Cleveland media spokesman did not provide an updated response by Crain's deadline last Friday, Feb. 10.

Analyzing the legislation that passed the Legislature in a December blog post, William Hanna, a public law attorney with the Cleveland firm of Walter & Haverfield, wrote that the revised legislation signed by Kasich "significantly impacts a municipality's ability to regulate the placement, construction, modification, and maintenance of 'small cell' wireless facilities in the public right of way," meaning along public streets.

That means a cellular phone company can attach small-cell wireless equipment to existing light poles, traffic signals or sign poles in the right of way and can construct a new pole or modify an existing pole that has wireless equipment.

Advertisement

These new antennas, Gryzbicki said, would add between a foot to 18 feet on an existing pole.

A community also may not apply zoning restrictions nor exclude equipment placement of equipment from residential areas or even require that equipment be a specific distance from a residence or other structure.

Hanna, who did not respond to an email seeking comment, also argued that the new law "offends principles of (local) home rule."

Strongsville law director Jamison was more circumspect.



still have the right to enact some regulations for (the wireless companies) to comply with."

But he said Strongsville and other cities will have to figure out how this will affect areas that have been designed to be pole-free, with underground utilities.

Asked about the concerns of communities or neighborhoods with underground utilities, AT&T Ohio spokeswoman Holly Hollingsworth responded with an emailed statement.

"AT&T's first priority when working with any municipality on small cell deployment is to work in a collaborative manner so citizens and businesses can benefit from additional telecom infrastructure," the statement read.

"If there are no existing utility poles as an option for small cell deployment, AT&T would evaluate the use of municipal light poles and traffic poles in the public right of way in discussions with municipal leaders on a case-by-case basis and could also work with the private owners of structures outside the public right of way (e.g., parking structures) for small cell deployment," according to the statement.

Roger Geiger, Ohio executive director for NFIB, the national small business advocate, in a letter sent to the finance committee of the Ohio House of Representatives while the committee was crafting the small-cell language, said, "(W)e are supportive of the addition of language that eliminates obstacles to expanding small cell technology in Ohio. These small cells will ensure Ohio keeps pace with evolving mobile communication technology and provides businesses tools that make connecting with employees and customers simpler and more efficient."

Steve Van Dinter, spokesman for Verizon Ohio, AT&T's chief competitor in Ohio, said he was unaware of the new legislation but that his company continues to roll out small cell equipment for its 4G service.

Advertisement

MORNING ROUNDUP

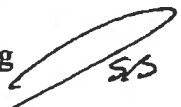
Business headlines from Crain's Cleveland Business and other Ohio newspapers — delivered FREE to your inbox every morning. Sign up for the Morning Newsletter.

SUBMIT

CITY OF KENT
DEPARTMENT OF PUBLIC SERVICE
DIVISION OF ENGINEERING

MEMO

TO: Dave Ruller
Tara Grimm

FROM: Jim Bowling 

DATE: April 25, 2017

RE: OPWC Pre-application - Grant and No Interest Loan Requests

The Engineering Division is requesting council time to seek approval to submit two funding applications and to execute the subsequent agreements with the Ohio Public Works Commission (OPWC), if successful, for the following projects.

Hudson Road Water Main Project – This project includes the replacement of undersized (4”) and older (pre-1922) water main along Hudson Drive from Whetstone to Fairchild Avenue. The existing watermain has had several breaks in this area and the undersized mains have a detrimental impact on available fire flows in the area.

The total cost of construction and design is estimated at \$1,190,300 and we are requesting \$350,000 in grant funds and \$150,000 in no interest loans from OPWC. The total funding for this project has been encumbered or included in the approved Capital Plan.

Middlebury Road Resurfacing Project - This project consists of resurfacing Middlebury Road from Janet Drive to south of Akron Boulevard. The project will abut the resurfacing of Middlebury Road that is planned for construction this year from SR 59 to Janet Drive. After both projects are completed, the entire length of Middlebury Road will have been resurfaced.

The total cost of construction is estimated at \$650,000 and we are requesting \$175,000 in grant funds and \$150,000 in no interest loans from OPWC. The total funding for this project is already included in the approved Capital Plan as part of the annual street and sidewalk program.

c: Melanie Baker
Jim Silver
David Coffee
Rhonda Boyd
Pat Homan
file



CITY OF KENT, OHIO

DEPARTMENT OF FINANCE

To: Dave Ruller, City Manager
From: David A. Coffee, Director of Budget and Finance
Date: April 25, 2017
Re: FY2017 Appropriation Amendments, Transfers, and Advances

The following appropriation amendments for the May Council Committee Agenda are hereby requested:

Fund 001 – General

Increase \$ 2,580 Human Resources Department / Other (O&M) – Addt'l funding to provide annual Driver's License check for City employees operating City vehicles per S. Stemnock 4/18/2017 memo.

Increase \$ 18,000 Human Resources Department / Personnel – Addt'l funding to cover General Fund proportional amount of retirement final payouts for H.R. Manager per B. Huff 4/21/2017 memo.

Fund 201 – Water

Increase \$ 7,000 Human Resources Department / Personnel – Addt'l funding to cover Water Fund proportional amount of retirement final payouts for H.R. Manager per B. Huff 4/21/2017 memo.

Fund 202 – Sewer

Increase \$ 7,000 Human Resources Department / Personnel – Addt'l funding to cover Sewer Fund proportional amount of retirement final payouts for H.R. Manager per B. Huff 4/21/2017 memo.

Fund 301 – Capital

Increase \$ 287,413 Service / Capital Facilities / Capital – Addt'l funding to enable MOU agreed upon proportional disbursement of ODOT Refund received by City of Kent to Portage County for Fairchild Avenue Bridge Project per J. Bowling 3/13/2017 memo.

Decrease \$ 152,850 Service / Capital Facilities / Capital – Reduction in Appropriated Funding for the Fairchild Avenue Bridge Project due to final reconciliation of that project with ODOT per J. Bowling 3/13/2017 memo.



CITY OF KENT, OHIO

Human Resources Department

To: Dave Coffee, Budget and Finance Director
From: *SPS*
Suzanne Sternock, Human Resources Manager
Subject: Appropriation Request
Date: April 18, 2017

The Human Resources Department would like to request funds to be appropriated to the professional services line (001-09-570-705-7340) for annual City driver's license check. These funds will be used to check all employees' driving records who drive a City vehicle as requested by our insurance carrier and as describe in the City's motor vehicle policy. The proposed cost of this service is \$2,580.00.



CITY OF KENT, OHIO
DEPARTMENT OF BUDGET AND FINANCE

To: Dave Coffee, Director of Budget and Finance
From: Brian Huff, Controller
Date: April 21, 2017
Re: Appropriation Amendments Needed

An amendment to appropriations in funds 001, 201, and 202 is needed due to the retirement of the former HR Manager Liz Zorc. When she retired, additional funds that were paid 50% from the general fund, and 25% from each of the water and sewer funds were needed to provide for unused vacation, sick, and other leave balances, and to pay the one month standard of additional compensation for full-timers with more than 10 years of service to the City. We are asking for \$18,000 in the general fund, and \$7,000 for each of the water and sewer funds.

Thanks for your attention to this matter.

A handwritten signature in cursive script that reads "Brian Huff".

Brian Huff, Controller

CITY OF KENT
DEPARTMENT OF PUBLIC SERVICE
DIVISION OF ENGINEERING

MEMO

TO: David Coffee
Dave Ruller

FROM: Jim Bowling *J/B*

DATE: March 13, 2017

RE: Fairchild Avenue Bridge Project – Appropriations Request

The Engineering Division is requesting to appropriate \$287,412.92 from the Capital Fund (301) to return funds to the Portage County Engineer's Office provided to complete the Fairchild Avenue Bridge project per our Memorandum of Understanding (MOU) dated 4/9/2009. On February 2, 2017, the City of Kent received a \$744,228.51 payment from the Ohio Department of Transportation (ODOT). The payment was the final reconciliation for the Fairchild Avenue Bridge Project constructed by ODOT from 2009 to 2013. Per our MOU, \$287,412.92 is due to the Portage County Engineer's Office and the remaining \$456,815.59 will be distributed to the following funds based on their percentage contribution to the project's completion, as shown in the attached sheet.

Water Fund (201) - \$82,460.52
Sewer Fund (202) - \$174,149.47
Storm Fund (208) - \$146,761.86
Capital Fund (301) - \$53,443.74

If there are any questions on the above request, please let me know.

c: Melanie Baker
Brian Huff
Cathy Wilson
file

Crain Avenue Bridge Relocation (PID 18466)

Date: 3/13/2017

Reimbursement Fund Breakdown:

Original Disbursement Percentage:

Fund	Disbursements			% of Total
	Year 2009	Year 2010	Year 2011	
201	\$ 100,000.00	\$ 94,000.00	\$ 83,000.00	11.1%
202	\$ 220,000.00	\$ 188,000.00	\$ 177,000.00	23.4%
208	\$ 200,000.00	\$ 188,000.00	\$ 105,000.00	19.7%
301	\$ 1,060,000.00	\$ 75,000.00	\$ 10,000.00	45.8%
Total	\$ 1,580,000.00	\$ 545,000.00	\$ 375,000.00	
			\$ 2,500,000.00	

Reimbursement Distribution by Fund:

ODOT Settlement Received: \$ 744,228.51

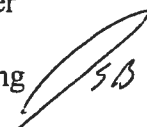
Fund	% of Total	Fund Reimbursement	Portage Co. Repayment ¹	Net Fund Impact
201	11.1%	\$ 82,460.52	-	\$ 82,460.52
202	23.4%	\$ 174,149.47	-	\$ 174,149.47
208	19.7%	\$ 146,761.86	-	\$ 146,761.86
301	45.8%	\$ 340,856.66	\$ 287,412.92	\$ 53,443.74
Total		\$ 744,228.51	\$ 287,412.92	\$ 456,815.59

¹ - Portage County Payments received were returned to the Capital Fund (301)

CITY OF KENT
DEPARTMENT OF PUBLIC SERVICE
DIVISION OF ENGINEERING

MEMO

TO: David Coffee
Dave Ruller

FROM: Jim Bowling 

DATE: March 13, 2017

RE: Fairchild Avenue Bridge Project – Appropriations Reduction Request

The Engineering Division is requesting to reduce appropriations from the Capital Fund (301) in the amount of \$152,850. The funds are no longer needed for the above referenced project as the final reconciliation for the project was completed by the Ohio Department of Transportation (ODOT). The final reconciliation showed that the City was not required to contribute any additional funds for the project.

If there are any questions on the above request, please let me know.

c: Melanie Baker
Brian Huff
Cathy Wilson
file



Main Street Kent 2017 Q1 Progress Report

Marketing Committee – Led by Pam Petrus, owner of Diversa Advertising, the marketing team’s focus is to promote downtown Kent and its shops, restaurants, nightlife, arts, culture, great events and uncommon character. Hosting events year round, we entice visitors and Kent residents to the downtown district. We also promote the businesses and features of downtown Kent though web, email, billboard, radio, print and social media. **Committee members include:** Mike Beder, downtown business owner; Regan Gettens, College Town Kent vice president/property manager; Chris Hallahan, IdeaBase user experience designer; Michelle Hartman, The Burbick Companies vice president; Kim Holm, Mercy Health marketing professional; Susan McGann, Ohio Small Business Development Center business advisor; Michelle Sahr, downtown business owner; Mike Salvi, Full Spectrum Marketing vice president of business development; Nancy Whitehead, Record Publishing corporate classified director; and Tom Wilke, City of Kent economic development director.

Marketing Plan – The Main Street Kent marketing committee has developed a comprehensive marketing plan, with assistance from Full Spectrum Marketing, identifying goals and objectives to steer our efforts for the coming year. This includes increasing the attendance and profitability of our events, strategic target marketing to specific demographics/audiences, increasing activity on our website and social media through SEO (search engine optimization), email/data collection from fans/followers/event attendees, and more. It’s important to use a mix of media when promoting our events and our downtown, since we’re trying to reach a wide variety of demographics.

Good Times Magazine – Below is a half-page ad featuring many aspects of downtown Kent including events, outdoor recreation, live music, and shopping. Several signature events are also highlighted, as well as our website and social media, so people know how to stay connected to what’s happening in downtown Kent. 100,000 copies of this publication will be distributed throughout northeast Ohio.





Social Media – Marketing via social media continues and increases, strengthening our presence on Twitter, Instagram, and Facebook. Current followers: **Facebook – 10,007** (Rating: 4.9/5); **Twitter – 2,621**; **Instagram – 2,722** and growing! We’re also starting some activity on SnapChat, so stay tuned for updates on this platform as well.

New Website – At the start of 2017, we launched a new website. Our newly designed, responsive site (which automatically adjusts its appearance/layout based on the device used to view the site) is concise, easy to navigate, and full of information people want to find about Kent. More elaborate information is now prevalent regarding Main Street Kent programs, as well as the Friends of Main Street Kent support opportunity. We will continue to optimize the content on our site to ensure maximum traffic and usefulness.



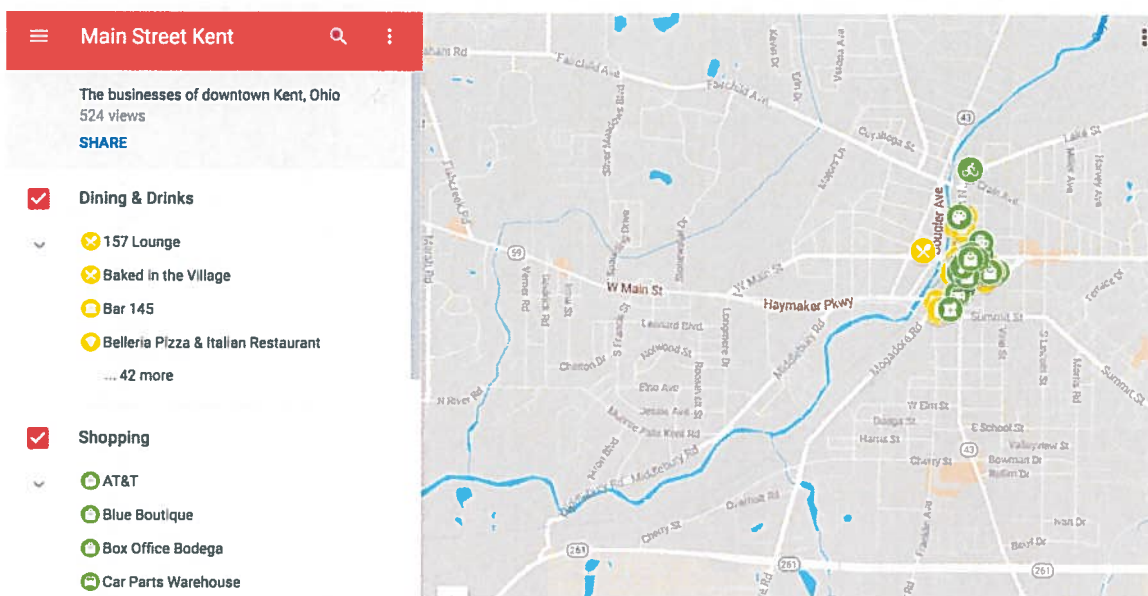
Leaderboard Ads – Each month, we place a new ad on www.recordpub.com, and each ad receives a minimum of 50,000 impressions. A theme is chosen each month based on events, seasonal activity, shopping, dining, etc. We feature “Friends of Main Street Kent” (businesses that support MSK with an annual \$150 donation) in these ads as an added benefit for supporting our organization. These ads drive traffic to our website as well. Examples from January (shopping), February (bars) and March (restaurants) follow:

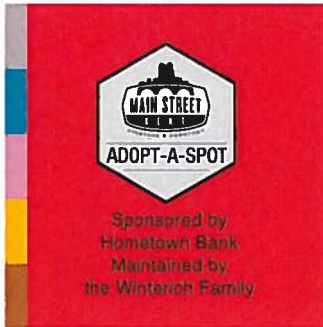




Design Committee – The Design Committee is led by Jeff Meyers, principal architect at DS Architecture. The Design Committee is intended to be the “designing voice of the Kent community,” and is focused on the aesthetics of our downtown. **Committee members include:** Dylan Ball, DS Architecture project designer; Rebekkah Berryhill, Kent State University grounds supervisor; Annie Flaherty, Envisage Group vice president of technology service; Tom Hatch, Coleman Professional Services resource and business development; Julie Kenworthy, Kent Historical Society executive director; Larrie King, Glyphix Studio/KSU assistant professor; Joelle Liedke, 4Cats Art Studio owner; Jen Mapes, KSU Department of Geography assistant professor; Allan Orashan, Century 21 realtor; Amanda Paulus, KSU Office of Experiential Education director; Heather Phile, City of Kent development planner; Ricardo Sepulveda, KSU School of Music marketing associate; David Sommers, DS Architecture principal architect; Dan Tillett, Troy Construction owner; Alex Ulbricht, KSU Office of Experiential Education assistant director; Alan Walker, Each + Every vice president.

Online Map – We created an online map of the downtown district for our website, showing all of the dining, shopping, services, points of interest, parking, and trails in the downtown district. Users can see as much or as little as they wish on this interactive map by turning categories “on” and “off.” This is a very useful tool to visitors and residents alike, with our ever-changing downtown! <http://mainstreetkent.org/visit/map/>





Adopt-A-Spot – Preparation for the 2017 Adopt-A-Spot season has begun, with several new sponsors and gardeners joining the program this year. Some other changes are in store, including the addition of a new caretaker for the hanging flower baskets, K&M Gardens, and the addition of perennials to some of the flowerbeds. Planting day will be on Sat., May 27, and the veterans of Freedom Lawn Care will begin preparing the flowerbeds during May. We are also redesigning the signage for our flowerbeds to better align with the downtown way finding program.

Business Enhancement Committee – This committee is led by Eric Decker of Portage Community Bank. The focus is to drive traffic through the doors of older business as well as newer ones. In addition, the committee searches out opportunities for the businesses to work together, whether on an event, a promotion, or otherwise. Committee members include: Mike Beder, downtown business owner; Mike Finley, Hall-Green Agency owner; Patrick Madonio, Brimfield Insurance owner; Josh Rider, KSU Center for Adult and Veteran Services director; Tom Wilke, City of Kent economic development director.



Chocolate Walk – Feb. 11, 2017. This popular event generates a nice profit for Main Street Kent and great foot traffic for participating businesses during a particularly slow time of year. Two hundred fifty tickets were sold at \$20 each. Business owners met many new customers and had great sales during the event. This year, Acorn Alley donated an overnight stay at the Daniel D. Smith “guest quarters” in Acorn Corner, dinner for two at Laziza, and breakfast for two at Rise & Shine Café for our big drawing, in which all attendees were entered to win. Guests came from cities all around us for this great event where people love getting out of the house to enjoy a chocolate adventure in downtown Kent.

Drink. Eat. Laugh. Progressive Event – Eighty guests joined us for a night out on the town at this fun progressive event. For an all-inclusive ticket price, attendees enjoyed cocktails at the new Franklin Hotel Bar, dinner at Laziza, a stand-up comedy show by Mike Polk, Jr. at The Kent Stage, and dessert at Tree City Coffee & Pastry. It’s quite a sight to see a roving group of this size out enjoying our downtown, and we heard lots of comments from people saying they had not ever been to some of our stops, so “mission accomplished!”

DRINK . EAT . LAUGH

Main Street Kent Progressive Event
March 25, 2017 | \$75.00 per ticket (all inclusive)

	<p>5:00 - 8:00pm</p> <p>Enjoy two drinks from a select menu at the new Franklin Hotel Bar. Menu will include beer, wine and cocktails.</p>
	<p>8:00 - 7:15pm</p> <p>For dinner, choose from a menu offering seafood, chicken, beef and pasta options. Meal includes a soft drink.</p>
	<p>7:30pm</p> <p>Head to the Kent Stage for stand up by Cleveland comic and KSU alumnae Mike Polk Jr.</p>
	<p>Following show</p> <p>End the evening at Tree City Coffee & Pastry with 2 wine and dessert tastes.</p>

Generously sponsored by




Operations Committee – Our Executive Team is focused on succession planning for our Board of Directors, fundraising, and the overall sustainability of our organization. Leadership for MSK is based in our **Executive Committee**:

- **President** – Mike Finley, Hall-Green Agency
- **Vice President** – Regan Gettens, Fairmount Properties/College Town Kent
- **Treasurer** – Mike Lewis, Hometown Bank
- **Secretary** – Joan Conaway, Joan Conaway Interior Designs

Board of Directors – Mike Beder, Mike Carr, Eric Decker, Regan Gettens, Tom Hatch, Todd Kamenash, Julie Kenworthy, Jeff Meyers, Pam Petrus

Board of Governors - Ron Burbick, Michelle Sahr, Tom Wilke

Strategic Planning – Janus Small Associates facilitated our long-term strategic planning in a half-day session on Sat., Jan. 28th. Our team is excited and committed to continuing our work to revitalize, promote, beautify and sustain our great city. Key points of our strategic plan include an increased focus on branding and awareness of our organization, formalizing our volunteer program, deepening our KSU connections, continuing to grow resources for organizational financial security, and more. Our strategic plan will be the guide for all of our work moving forward, with plans to reassess it each year.



**HERITAGE
OHIO**

Annual Accreditation – Heritage Ohio made its yearly visit to Kent on March 8th for our official annual evaluation. After a meeting with city manager Dave Ruller, MSK committee reports, and a thorough assessment of our program’s 2016 achievements, Main Street Kent received official certification for the year 2016. A score

of **99%** reflects the strength of our board, staff, and volunteers, as well as the breadth of our relationships with other organizations, businesses and the city of Kent.

Volunteers – Volunteers are the driving force behind the success of Main Street Kent. This includes our Board of Directors, committee members, and all of the great people who dedicate their valuable time to various Main Street Kent projects and events. For the first quarter of 2017, volunteers have donated 221 hours of their time!

We appreciate the ongoing support of the City of Kent! We look forward to continuing our partnership with all of the organizations (<http://www.mainstreetkent.org/our-supporters>) that help us continue our mission: ***Working to strengthen and beautify downtown Kent while fostering economic development, historic preservation, and a sense of community.***



Main Street Kent

2017 INCOME ELIGIBLE FOR CITY MATCH

January - March, 2017

	TOTAL
INCOME	
4030 Corporate Sponsors & Foundations	
4031 Board Member Donations	450.00
4040 Friend of Main Street Kent	1,480.18
4048 Legacy Partners (10k+)	2,977.67
4049 Extraordinary Partner	1,000.00
Total 4030 Corporate Sponsors & Foundations	5,907.85
Total Income	\$5,907.85
GROSS PROFIT	\$5,907.85
EXPENSES	
Total Expenses	
NET OPERATING INCOME	\$5,907.85
OTHER INCOME	
4065 Fundraising Events	
4310 Art & Wine Festival	5,722.00
4320 Potterfest	3,647.52
4330 Oktoberfest	1,000.00
4340 Chocolate Walk	4,627.90
4360 Seven Courses	135.64
4380 Progressive events	
4381 Progressive Events Income	3,517.01
Total 4380 Progressive events	3,517.01
Total 4065 Fundraising Events	18,650.07
Total Other Income	\$18,650.07
NET OTHER INCOME	\$18,650.07
NET INCOME	\$24,557.92

**KENT POLICE DEPARTMENT
MARCH 2017**

	MAR 2016	MAR 2017	TOTAL 2016	TOTAL 2017	
CALLS FOR SERVICE	2576	2262	7431	6894	
FIRE CALLS	323	375	946	1053	
ARRESTS, TOTAL	232	187	558	545	
JUVENILE ARRESTS	7	12	36	32	
O.V.I. ARRESTS	15	18	51	50	
TRAFFIC CITATIONS	312	266	973	827	
PARKING TICKETS	917	1385	2333	3284	
ACCIDENT REPORTS	141	80	328	211	
Property Damage	103	46	260	125	
Injury	10	6	29	19	
Private Property	20	23	25	55	
Hit-Skip	5	1	9	7	
OVI Related	3	4	4	5	
Pedestrians	3	0	4	0	
Fatals	0	0	0	0	
U.C.R. STATISTICS					
Homicide	0	0	1	0	
Rape	0	0	0	1	
Robbery	1	0	1	5	
Assault Total	17	21	44	56	
Serious		8	3	16	13
Simple		9	18	28	43
Burglary	6	4	16	20	
Larceny	21	31	58	76	
Auto Theft	1	0	4	0	
Arson	1	0	1	0	
Human Trafficking:Servitude	0	0	0	0	
Human Trafficking:Sex Acts	0	0	0	0	
TOTAL	47	56	125	158	
CRIME CLEARANCES					
Homicide	0	0	1	0	
Rape	0	1	0	1	
Robbery	1	0	1	3	
Assault Total	14	18	36	48	
Serious		5	3	10	11
Simple		9	15	26	37
Burglary	1	1	4	4	
Larceny	4	7	16	11	
Auto Theft	1	0	1	1	
Arson	0	0	0	0	
Human Trafficking:Servitude	0	0	0	0	
Human Trafficking:Sex Acts	0	0	0	0	
TOTAL	21	27	59	68	

LAW DEPARTMENT

Monthly Report



2/1/17 to 3/31/17

-
- 1) Prepare or reviewed contracts for the following:
 - a) Sale of old Courthouse
 - b) Sale of Gougler Avenue properties to the Cenes, and note and loan agreement
 - c) Trash collection
 - d) Landscaping on Haymaker Parkway
 - e) Amendment to Tree Maintenance agreement
 - f) Bowers Lawn care
 - g) Part time plans reviewers
 - h) Arcadis for SR 43 signalization

 - 2) Festival insurance form applications: Earth Day, Marathon Run

 - 3) Did research in the following areas:
 - a) Stray cats forfeiture of cats
 - b) Civil Service temp help
 - c) Revisions to Chapter 935
 - d) Storm water code revisions

 - 4) Prosecution: Seventy (70) hearings (trials, pre-trials or suppression hearings) (February & March).

 - 5) Hearing on College Towers Fire Code Violations – Ashland, Ohio

 - 6) Draft Complaint and file against College Towers for fire code violations

 - 7) Attend Pretrial for Chapter 1122 challenge – parking spaces for multi-family units

 - 8) Draft response to Kent CDC, LLC, et al Motion for Summary Judgement (parking spaces case)

 - 9) Nine (9) new claims against the City (February & March)



KENT FIRE DEPARTMENT MONTHLY INCIDENT REPORT MARCH 2017

FIRE INCIDENT RESPONSE INFORMATION

Summary of Fire Incident Alarms

City of Kent			
Kent State University			
Franklin Township			
Sugar Bush Knolls			
Brady Lake Village			
Mutual Aid Given			
Total Fire Incident Alarms			

CURRENT PERIOD			YEAR TO DATE		
2017	2016	2015	2017	2016	2015
41	50	36	119	146	131
10	6	3	23	21	12
24	10	14	50	27	32
0	0	0	0	0	0
1	1	0	2	4	0
2	2	2	5	7	7
78	69	55	199	205	182

Summary of Mutual Aid Received by Location

City of Kent			
Kent State University			
Franklin Township			
Sugar Bush Knolls			
Brady Lake Village			
Total Mutual Aid			

1	0	0	3	1	2
0	0	0	0	0	0
0	0	0	0	0	2
0	0	0	0	0	0
0	0	0	0	1	0
1	0	0	3	2	4

EMERGENCY MEDICAL SERVICE RESPONSE INFORMATION

Summary of Emergency Medical Service Responses

City of Kent			
Kent State University			
Franklin Township			
Sugar Bush Knolls			
Brady Lake Village			
Mutual Aid Given			
Total Emergency Medical Service Responses			

CURRENT PERIOD			YEAR TO DATE		
2017	2016	2015	2017	2016	2015
204	174	197	624	523	559
22	45	29	71	101	82
59	32	27	128	95	94
0	3	3	1	3	6
7	0	3	13	5	6
2	0	4	9	7	9
294	254	263	846	734	756

Summary of Mutual Aid Received by Location

City of Kent			
Kent State University			
Franklin Township			
Sugar Bush Knolls			
Brady Lake Village			
Total Mutual Aid			

2	2	1	3	4	3
0	1	0	0	1	0
0	1	0	1	3	0
0	0	0	0	0	0
0	0	0	0	1	0
2	4	1	4	9	3

TOTAL FIRE AND EMERGENCY MEDICAL SERVICE RESPONSE INCIDENTS

372	323	318	1045	939	938
------------	------------	------------	-------------	------------	------------

TOTAL ALL RESPONSES, INCLUDING MUTUAL AID

375	327	319	1052	950	945
------------	------------	------------	-------------	------------	------------