

**TOWN OF KENT
TOWN BOARD MEETING
Tuesday, July 20, 2021**

Executive Session: 6:15 p.m.

To discuss proposed, pending or current litigation and or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

Public Hearing: 7:00 p.m.

Lake Carmel Park District Town Code Changes

Workshop/Meeting:

1. Pledge of Allegiance
2. Roll Call
3. Discussion and/or Vote on the following:
 - a. Lake Carmel Park District – resignation of LCPDAB member; advertise for new members
 - b. Huestis Park Revitalization
 - c. Code Enforcer – contract to correct violations at TM# 33.50-1-16, TM# 11.20-1-41, and TM# 22.66-2-10
 - d. Quote for generator repairs at Police Station
 - e. Extension of mining moratorium
 - f. Approval of Vouchers and Claims
4. Announcements
5. Public Comment

PARK DISTRICT # 1 (LAKE CARMEL PARK DISTRICT)

§ 50-1 Definitions.

The following terms, wherever used in this chapter, shall have the respective meanings assigned to them unless another meaning clearly appears from the context:

BATHING AREA

Any beach, shore or area designated as a "bathing area," including the water area and lands underwater adjacent to said area and the docks and structures therein.

OWNER

Any person owning or having the use, possession or control of a vehicle, animal or other property by lease or otherwise.

PARK DISTRICT NO. 1

All of the parks, playgrounds, athletic fields, tennis courts, swimming pools, beaches, boardwalks, piers, docks and other recreational areas, open places, roadways, roads, paths, walks, waters and lands underwater and other appurtenances as the same shall be utilized, whether now owned or hereafter acquired by the Town of Kent. Said district shall be defined as all that property shown on a certain map entitled "Lake Carmel, Town of Kent, Putnam County," filed in the Putnam County Clerk's office May 17, 1930, as Map No. 130-1, 130-AA, 130-BB, 130-CC, 130-DD, 130-EE, 130-FF, 130-GG, 130-HH, 130-I, 130-J, 130-K, 130-L and 130-MM, excepting therefrom any exclusion of record.

PERMIT

Any written authorization issued by the Town Clerk of the Town of Kent or other authorized individual for a specified privilege within the aforesaid park district.

PERSON

Any natural person, corporation, association, society, organization, firm or partnership.

POLICE OFFICER

Any member of the police force of the Town of Kent, or any constable, sheriff or deputy sheriff assigned by the Town Board of the Town of Kent or other proper authority to duties in said park district.

§ 50-2 Interpretation and scope.

The interpretation of these rules and regulations and provisions shall be construed as follows:

A.

Any term in the singular shall include the plural.

B.

Any term in the masculine shall include the feminine and neuter.

C.

Any requirement or provision involving any act shall include the causing, procuring, aiding or abetting, directly or indirectly, of such act, or the permission or allowance of any minor in the custody of any adult, doing any act prohibited herein.

D.

These provisions shall not make unlawful any act necessarily performed by any officer or employee in the line of duty or work.

E.

Any act performed hereunder which might be otherwise unlawful shall be lawful if performed under or pursuant to a permit, except that it be not otherwise prohibited by any local law or ordinance.

§ 50-3 Access to park by residents.

Residents, inhabitants and taxpayers of Park District No. 1 shall at all times have access to and may enter upon and use the privileges appurtenant to the parklands defined herein. However, at such times when deemed necessary by the proper authorities in the interests of public safety, welfare or emergency, such access to said parklands and permission to use said parklands may be revoked for any period of time necessary.

§ 50-4 Identification; car stickers.

A.

All residents, inhabitants and taxpayers of said Park District No. 1 shall be required to obtain a Park District photo ID for identification at Park District beaches. Residents shall produce their Park District photo ID when called upon to do so by any authorized representative of the Town Board or any person assigned to such duty by the Town Board or its agents. All other persons shall be required to display a permit issued pursuant to **§ 50-4** hereof.

[Amended 10-19-2009 by L.L. No. 7-2009]

B.

The use of the beach areas shall be restricted to all property owners and their lessees and the members of their immediate families and their guests. Only those persons shall be admitted to beach areas who are properly identified as members of those groups named above. All motor vehicles and other vehicles shall have their identification verified by a car sticker to be issued by the Lake Carmel Park District. These stickers are to be issued for each motor vehicle or other vehicle belonging to the residents and owners of

the park district upon presentation of a paid tax bill or proof of residency covering the current year. These stickers may be obtained at the Town Hall during regular business hours.

§ 50-5 Boat registration.

[Amended 11-24-1986 by L.L. No. 5-1986; 4-20-1998 by L.L. No. 2-1998]

A.

Registration stickers.

[Amended 5-20-2002 by L.L. No. 2-2002]

(1)

All property owners and their lessees and the members of their immediate families maintaining boats on Lake Carmel shall register each boat with the Town of Kent Park District Office. The Park District Office will assign a number and will issue two registration stickers to each boat, free of charge. However, boat owners shall be charged a replacement fee, as set from time to time by resolution of the Town Board, for the reissuance of a registration sticker that has been lost or misplaced. The Park District Office shall provide the registration numbers to the Kent Police Department.

[Amended 4-20-2009 by L.L. No. 3-2009; 11-15-2011 by L.L. No. 6-2011]

(2)

The number and registration stickers must be displayed on both sides of the boat. The numbers must be displayed in characters at least three inches high. If a boat is not registered or if a boat is abandoned within the judgment of the park officials, the same shall be impounded by the park officials, and a charge of \$125 shall be collected before the same is returned. Said \$125 shall be added to the Park District funds.

B.

All boats shall be removed from the Park District property around Lake Carmel for the period of time from November 1 until March 15. Within two weeks after November 1 of each year, the Town Board shall notify the owner to remove his or her boat. Any person found guilty of a violation will result in the park officials impounding said boat. A charge of \$125 shall be collected before the same is returned. Said charge of \$125 shall be added to the Park District funds.

[Amended 5-20-2002 by L.L. No. 2-2002]

C.

Wearable Life Jackets

(1)

There shall be one Wearable Life Jackets in any boat on Lake Carmel for each occupant of said boat. Life preservers shall conform to United States Coast Guard standards.

(2)

Occupants of boats, who are under 13 years of age, must wear approved life preservers while on the water of Lake Carmel. However, between November 1 and May 1, all persons, regardless of age, must wear approved life preservers while on the water of Lake Carmel.

[Amended 11-15-2011 by L.L. No. 6-2011]

(3)

Any person found guilty of a violation of Subsection **C(1)** or **(2)** of this section shall, upon conviction thereof, be subject to:

(a)

A restriction of lake privileges for one week for a first offense.

(b)

A fine of \$50 for a second or subsequent offense along with the revocation of the boat registration.

(4)

Any owner or registrant who permits a boat to be on the waters of Lake Carmel in violation of any provision of this section shall be guilty of an infraction as above stated.

D.

No boat shall be allowed on the waters of Lake Carmel that is over 20 feet in length from bow to stern. No floating device shall be allowed on the waters of Lake Carmel that is

over 20 feet from one end to the other lengthwise or more than six feet in width.
[Amended 8-1-1988 by L.L. No. 4-1988]

§ 50-6 Curfew.

[Amended 11-19-1979 by L.L. No. 6-1979; 11-24-1986 by L.L. No. 5-1986]

There is hereby imposed a curfew on bathing areas and bathing area parking lots. Curfew hours shall be from 9:30 p.m. until 6:00 a.m.

§ 50-7 Preservation of plant life.

A.

No person shall, in any park or park street, destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground or remove any growing thing, including, but not limited to, any plant, flower, flower bed, shrub, tree, growth, or any branch, stem, fruit or leaf thereof.

B.

No person shall bring into any park or park street any tool or instrument such as a hatchet, axe or saw for the cutting of any living thing.

C.

No person shall bring into the park any spade, shovel, rake, hoe or any of the so-called garden or agricultural implements or tools for the removal of any tree, shrub or plant.

D.

No person shall pile or maintain any material or debris of any kind against or upon any tree, shrub, grass or plant.

E.

No person shall attach any rope, cable or other contrivance to any tree, shrub or other plant.

F.

No person shall set fire or assist another to set fire to any timber, tree, shrubs, plants, flowers, grass or plant growth, or suffer any fire upon other land to extend into parklands.

G.

No person shall hitch any horse or other animal to, or leave the same standing near enough so as to injure, any lawn or grass plot.

H.

No person shall go upon any tree, shrub, grass or plant, except at such times when permission to do so shall have been given by the Town Board to the public.

§ 50-8 Rubbish and refuse; pollution. [1]

A.

Rubbish and refuse matter. No person shall take into, carry through, leave in, or throw, cast, lay, drop or discharge into or on, or suffer or permit any servant, agent, employee or person in his or her charge to take into, carry through, leave in, throw, cast, lay, drop or discharge into or on, any park or park street any rubbish of any sort, including, but not limited to, ashes, dross, cinders, shells, fruit, fruit skins, vegetable foodstuff, paper, pasteboard, dirt, sand, oil, grease, clay, loam, stone or building rubbish, hay, straw, oats, sawdust, shavings, or manufacturing, trade or household waste, vehicles or parts thereof as junk, old iron or other metal, or objects made therefrom; or sick, diseased or dead animals, organic refuse or other offensive matter, including swill, brine, urine, offal, fecal matter, garbage or rubbish.

B.

Spitting prohibited. No person shall, in any park or park street, spit upon any walk, crossing, safety zone, structure, bridge, platform, stairway or floor of any building.

C.

Pollution of waters. No person shall throw, cast, lay, drop or discharge into or leave in the waters used for bathing or waters in any park or in any storm sewer or drain flowing into said waters, any substance, matter or thing, liquid or solid, which may or shall result in the pollution of said waters.

D.

Drains and sewers. No person shall discharge, directly or indirectly, into any opening or into any gutter leading into any sewer, receiving basin or drain, in or leading into any park or park street, any gas or vapor or any substance which may form a deposit tending to choke same, or any volatile liquid which will emit an inflammable vapor at a temperature below 160° F., or any steam or hot water above 100° F.

E.

Protection of bathing area. No person shall throw, cast, lay or deposit any bottle or piece of crockery, or any glass or glassware or any part thereof, or metallic or other substance with sharp edges or projections, on any beach or bathing area in, on or adjoining any park.

[1]

Editor's Note: See Ch. 40, Garbage and Refuse; Landfill.

§ 50-9 Firearms and weapons.

No person shall have or carry, whether or not concealed upon his person, any pistol or revolver, or any instrument or weapon commonly known as a "toy pistol" or in which or upon which loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, except when so authorized by law. No person shall use any rifle, shotgun or fowling piece, or any air gun, spring gun or other instrument or weapon in which the propelling force is a spring or air, within the confines of Park District No. 1.

§ 50-10 Dogs. [1]

No dogs shall be allowed at any time on the designated beaches, and the owners of or persons harboring such dogs or otherwise responsible for such dogs shall be liable for violation of this provision of this chapter.

[1]

Editor's Note: See Ch. 32, Dogs and Other Animals.

§ 50-11 Reserved

§ 50-12 General conduct.

Any person shall be guilty of violating these rules and regulations for the following:

A.

Disobeying an order of a police officer, playground director, parking attendant or other person designated by the Town Board to give orders, or disobeying the notices, prohibitions, instructions or directions on any park sign.

B.

Using threatening, abusive or insulting language.

C.

Doing any obscene or indecent act.

D.

Throwing stones or other missiles.

E.

Annoying persons.

F.

Interfering with, encumbering, obstructing or rendering dangerous any drive, path, walk, dock, beach, boardwalk or public place.

G.

Climbing or lying upon any wall, fence, shelter, seat, statue, monument, boardwalk or other structure.

H.

Doing any act tending to or amounting to a breach of peace.

I.

Entering or leaving any restricted park area except at established entranceways or exits or at established times; or using or gaining admittance to, or attempting to use or gain admittance to, the facilities in any park.

J.

Introducing, carrying or firing firearms, firecrackers, torpedoes or fireworks, except as provided by § 50-9 hereof.

K.

Engaging in, instigating, aiding or encouraging a contention or fight, whether or not a ring fight or prizefight.

L.

Assaulting any person.

M.

Doing, aiding, abetting or assisting in doing any act injurious to any person, animal or property within any park or on any park street not specifically prohibited herein.

N.

Acting as crier or advertiser, through the media of voice, public address system or other mechanical device, on beaches or boardwalks or in the vicinity of same.

O.

Dressing or undressing in autos, trucks, buses or other conveyances or anywhere within the parkland except in such places as may be designated or maintained by the Park District for such purpose.

P.

Feeding any waterfowl on Lake Carmel and anywhere along the shores of Lake Carmel is prohibited. The shores on Lake Carmel for purposes of this section shall be defined as the land extending from the shoreline to the pavement of the nearest roadway.

[Added 12-7-1987 by L.L. No. 6-1987]

A.

The speed limit for all vehicles within the area of said parkland may be provided for by the Town Board and designated by suitable signs on the roads and roadways in the parkland. All owners and operators of motor vehicles and other vehicles shall comply with the Vehicle and Traffic Law of the State of New York while operating any vehicle within the parkland, with such modifications of said law as provided for herein.

B.

Commercial vehicles shall not be allowed within said parkland except as may be necessary for building or construction purposes or for the rendering of some necessary and useful service, or those vehicles owned and/or used by residents necessary for their transportation to and from their work.

C.

The Town Board may designate and limit such roads and roadways as in its discretion may be used for the operation of any commercial vehicle.

D.

Nothing in this section shall apply to vehicles and apparatus of the Fire Department, Police Department or public service emergency vehicles when in such parkland in case of fire or other emergency.

E.

No person shall cause or permit any motor vehicle or other vehicle unnecessarily to obstruct traffic on any road, street or roadway, or stop or park except at such places as may be designated, except in case of emergency. This provision shall be deemed to include parking at night.

F.

Parking of any motor vehicle or other vehicle is prohibited on the lakeshore side of any road abutting Lake Carmel.

[Added 7-1-1991 by L.L. No. 3-1991]

[1]

Editor's Note: See Ch. 72, Vehicles and Traffic.

§ 50-14 Structures.

A.

The Town Board shall have the right to remove or cause to be removed any and all existing projections, encroachments, docks, piers and other impediments when, in the opinion of the Town Board, such removal shall be necessary or desirable for the improvement of the parkland.

B.

Hereafter, no person shall erect a wharf, pier or other structure on the park property without obtaining the prior consent of the Town Board by resolution passed at a meeting of the Town Board duly called and held, and such resolution, if passed, shall provide appropriate safeguards to assure that the structure, when erected, shall be available to all the inhabitants of the Park District.

§ 50-15 Motorboats, airplanes and drones.

Pursuant to § 198, Subdivision 4, of the Town Law, the operation of motorboats, airplanes, drones, or any internal combustible vehicles with the exception of electric trolling motors on Lake Carmel in Park District No. 1 of the Town of Kent is hereby prohibited.

§ 50-16 Penalties for offenses.

[Amended 11-24-1986 by L.L. No. 5-1986]

Any person found guilty of a violation of this chapter or any part thereof or any rule or regulation made thereunder, that does not have its own penalty provision, shall, upon conviction thereof, be subject to a fine of not more than \$250 or to imprisonment of not more than 15 days, or to both such fine and imprisonment.

§ 50-17 Fishing restrictions.

[Added 8-2-1976 by L.L. No. 6-1976]

A.

In the interest of public safety, no fishing shall be permitted along Route 311 where Route 311 crosses Lake Carmel at any time, nor within any bathing area.

[Amended 12-7-1987 by L.L. No. 7-1987]

B.

Any person violating any of the provisions of this section shall be liable for and shall pay a penalty not exceeding \$100.

§ 50-18 Glass containers.

[Added 4-2-1979 by L.L. No. 2-1979]

No person shall take into, carry through, leave in or throw, cast, lay, drop or discharge into or on any park or park road, with the exception of the Lake Carmel Community Center and that property leased to Tenants at 640 Route 52 Tax #33.-1-76 any glass container of any sort, including but not limited to bottles, jars and glasses.

§ 50-19 Alcoholic beverages.

No person shall enter or remain upon any parklands of Park District No. 1, with the exception of the Lake Carmel Community Center and that property leased to Tenants at 640 Route 52 Tax #33.-1-76 while in possession of any alcoholic beverage.

§ 50-20 Certain passage prohibited.

[Added 7-1-1991 by L.L. No. 5-1991]

No entry shall be permitted from Champlain Drive onto Terry Hill Road, nor entry from Terry Hill Road onto Champlain Drive. A physical barrier, removable only in case of emergency, shall be erected to prevent passage on Champlain Drive either from or to Terry Hill Road.

§ 50-21 Smoking prohibited on beaches.

[Added 10-30-2006 by L.L. No. 2-2006; amended 11-27-2006 by L.L. No. 3-2006]

Smoking on any and all of the beaches located within Park District No. 1 in the Town of Kent is strictly prohibited. For the purposes of this section, "smoking" shall include cigarettes, cigars, pipes and any other form of smoking

Town Board Huestis Park Resolution Template

WHEREAS, the Town Board supports the submission of an application to the Office of Parks, Recreation, and Historic Preservation's Environmental Protection Fund Grants Program for Parks, Preservation, and Heritage (EPF) for the purpose of rehabilitating the Huestis Town Park;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the Town Supervisor to apply for the EPF Grant Program;

FURTHER RESOLVED, that the Town Board of the Town of Kent hereby authorizes the use of matching funds equal to 50% of the total project cost in order to satisfy program requirements.

I, Yolanda D. Cappelli, Town Clerk of the Town of Kent, do hereby certify that the above is a true and exact copy of a resolution adopted by the town board of the Town of Kent at a meeting of said board on July 20, 2021.

July 20, 2021

Yolanda D. Cappelli, Town Clerk



CODE ENFORCEMENT

OF THE TOWN OF KENT, PUTNAM COUNTY, N.Y. 10512
845-306-5598

July 19, 2021

From: Zoning Enforcement Officer, Town of Kent:
To: Supervisor Fleming, Town board members, Town of Kent:
Subject: Violations requiring town corrective action:

Enclosed please find violations issued by the undersigned and bids for correction.
Site owners have not responded to Notices of Violation with correction.

Locations requiring correction and proposed bids by J.B. affordable Lawn Care:

22 Rosedale Road: \$175.00

58 Whangtown Road: \$200.00


15 Chatham Road: \$175.00

Rhona Landscapping Inc. Failed to submit a bid.

Dirt and Demo Inc. Failed to submit a bid

Notices of Violation and bids are enclosed.

For your consideration and approval.



William Looney,
Zoning Enforcement Officer,
Town of Kent.

BIDDING PROPOSALS

**JAMES K. BENNETT
J.B. AFFORDABLE LAWN CARE
3 MOUNTAIN VIEW KNOLLS, APT A
FISHKILL, N.Y. 12524**

JULY 15, 2021

**TO WILLIAM LOONEY, ZONING ENFORCEMENT OFFICER, TOWN OF
KENT, PUTNAM COUNTY, NEW YORK.**

**PLEASE ACCEPT THE FOLLOWING PROPOSALS TO CORRECT THE
OVERGROWTH OF GRASS AND OR BRUSH AT THE FOLLOWING
LOCATIONS AT THE INDICATED RATES.**

22 ROSEDALE ROAD:	\$175.00
58 WHANGTOWN ROAD:	\$200.00
15 CHATHAM ROAD:	\$175.00

THANK YOU FOR YOUR BUSINESS,

JAMES BENNETT

OWNER



**CODE ENFORCEMENT
OF
THE TOWN OF KENT, PUTNAM COUNTY, N.Y. 10512
845-306-5598
KENTCODES@GMAIL.COM
ORDER TO REMEDY VIOLATION**

Location: 22 Rosedale Rd Kent, NY

Map NO: 33.50-1-16

Date: 7/7/2021

TO:

Humberto Mora
22 Rosedale Rd
Carmel, NY 10512

*U.L. Bank
60 Livingston Ave
Saint Paul, MN.
55107*

PLEASE TAKE NOTICE: THERE EXISTS A VIOLATION OF:

Town of Kent Municipal Code\Chapter 55a-Property Maintenance Code\Section 11 Subs B-1-
B Nuisances

at premises hereinafter described in that:

**GRASS/BRUSH: OWNER/AGENT HAS FAILED TO MAINTAIN SITE FREE OF EXCESS
WEED/GRASS/BRUSH GROWTH.**

**OWNER/AGENT MUST NOTIFY THIS OFFICE WITHIN TEN DAYS OF A PROPOSAL
TO REMEDY THE AFOREMENTIONED VIOLATION. IF THE REMEDY IS NOT
FORTHCOMING THE TOWN OF KENT WILL CONTRACT WITH A VENDOR TO
CORRECT THE VIOLATION AND THE FEE CHARGED WILL BE CHARGED TO THE
HOME OWNER OR THE TAX ASSESSMENT LEVIED ON THE SITE IF NOT PAID.**

**YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and
remedy the conditions above mentioned. Failure to remedy the conditions aforesaid and to
comply with the law may constitute an offense punishable by fine or imprisonment or both.**

William Looney
**WILLIAM LOONEY
ZONING ENFORCEMENT OFFICER
TOWN OF KENT**





**CODE ENFORCEMENT
OF
THE TOWN OF KENT, PUTNAM COUNTY, N.Y. 10512
845-306-5598
KENTCODES@GMAIL.COM
ORDER TO REMEDY VIOLATION**

Location: 58 Whangtown Rd Kent, NY

Map NO: 11.20-1-41

Date: 7/6/2021

TO:

**Marcial Martinez
58 Whangtown Rd
Kent Lakes, NY 10512**

PLEASE TAKE NOTICE: THERE EXISTS A VIOLATION OF:


**Town of Kent Municipal Code\Chapter 55a-Property Maintenance Code\Section 11 Subs B-1-
B Nuisances**

at premises hereinafter described in that:

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**OWNER/AGENT MUST NOTIFY THIS OFFICE WITHIN TEN DAYS OF A PROPOSAL
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**WILLIAM LOONEY
ZONING ENFORCEMENT OFFICER
TOWN OF KENT**







**CODE ENFORCEMENT
OF
THE TOWN OF KENT, PUTNAM COUNTY, N.Y. 10512
845-306-5598
KENTCODES@GMAIL.COM
ORDER TO REMEDY VIOLATION**

Location: 15 Chatham Rd Kent, NY

Map NO: 22.66-2-10

Date: 7/6/2021

TO:

**Chaffie McMullen
PO BOX 1505
Carmel, NY 10512-7505**

PLEASE TAKE NOTICE: THERE EXISTS A VIOLATION OF:

**Town of Kent Municipal Code\Chapter 55a-Property Maintenance Code\Section 11 Subs B-1-
B Nuisances**

at premises hereinafter described in that:

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comply with the law may constitute an offense punishable by fine or imprisonment or both.**


**WILLIAM LOONEY
ZONING ENFORCEMENT OFFICER
TOWN OF KENT**





Corporate Office
100 Newtown Road
Plainview, NY 11803
631.435.0437

Branch Office
115 Twinbridge Drive
Pennsauken, NJ 08110
856.768.2367

Branch Office
341 Kaplan Drive
Fairfield, NJ 07004
973.614.0091

Sales Quotation

Customer Info

Town of Kent
Tamara Harrison
25 Cybil's Crossing
Kent L, NY 10512

Agreement Prepared by

Steve Andiorio
973-614-0091
SAndiorio@Genserveinc.com
Fairfield

Quote #: AAAQ68464

Quote Date: 7/16/2021

Service Tech: Anthony McCarthy

Generator- Generac Sn 2074365
Location: Police Department
Automatic Transfer Switch

During the recent inspection, our technician was advised by site personel, the recent transfer was not normal. No other information of the issue was provided.

It is recommended that the transfer switch should be insopected amdnn maintenance procedures should be performed to prevent a possible power transfer failure.

A quote for repairs may follow.

Power when you need it is GenServe's promise. GenServe is your single solution to all of your power back-up needs. GenServe has been providing superior industrial generator sales and service for two decades and has grown to be the largest company in the metro area. With more than 45 trucks on the road, our expert technicians can get to you within two hours.

Description

ATS PM and Inspection

Qty

Unit Price

Ext. Price

1

\$800.00

\$800.00

This quote reflects the costs of Travel, Parts, and the Technical Skills required to complete the service.

It is our duty to keep you informed of the condition of your back up power supply.

Please contact me if I can be of further assistance.

SubTotal

\$800.00

Tax

\$0.00

Shipping

\$0.00

Total

\$800.00

Customer PO #

Customer Signature

Date

TOWN OF KENT LOCAL LAW NO. _____ of 2021
A LOCAL LAW EXTENDING A TEMPORARY LAND USE MORATORIUM
PROHIBITING MINING WITHIN THE TOWN OF KENT

BE IT ENACTED by the Town Board of the Town of Kent, Putnam County, New York, as follows:

Section 1. Legislative Intent.

This local law is intended to extend the temporary prohibition on the issuance of permits for the excavation of sand, gravel, topsoil, rock or other natural material within the Town of Kent, for an additional period of up to six (6) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such excavation.

By resolution dated March 3, 2020 the Town Board adopted Local Law #1 of 2020 temporarily prohibiting the issuance of permits for the excavation of sand, gravel, topsoil and rock or other natural material within the Town of Kent for a period of six (6) months from the effective date of said Local Law #1 of 2020.

On March 7, 2020, Governor Andrew Cuomo issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York due to the COVID-19 pandemic. The COVID-19 Pandemic is an outbreak declared a “public health emergency” for the entire United States by the United State Health and Human Services Secretary on or about January 31, 2020. Further, by Executive Order effective as of March 22, 2020, Governor Cuomo instituted “NY PAUSE” which closed all non-essential businesses and prohibited non-essential gatherings of individuals of any size for any reason, with such operations being reopened in phases. Although Town government was deemed an essential business, the pandemic itself and NY PAUSE presented numerous other, more pressing, challenges for the Town Board.

Due to the mandatory restrictions instituted by NY PAUSE and for the health and safety of residents, guests, and employees of the Town, the Town Board deemed it necessary to enact a six (6) month extension of the moratorium by Resolution dated September 1, 2020. Said extension expired on March 3, 2021. The Town Board deemed it necessary again to enact an additional six (6) month extension by resolution on March 2, 2021 which is set to expire on September 3, 2021. The Town has diligently worked to draft suitable legislation for proper and authorized regulation of mining, however, due to the ongoing limitations and restrictions caused by the COVID-19 pandemic, it is deemed necessary to enact this additional six (6) month extension of the moratorium in order to permit the Town Board adequate time in which to draft suitable legislation to address mining within the Town of Kent. During the term of the extended moratorium, the Town of Kent shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of Kent.

The objective of this moratorium is to allow the Town of Kent to assess and address its Code to promote community planning values by properly regulating such excavation. During the pendency of the moratorium, the Town Board will consider how best to permit excavation in certain areas so as to harmoniously integrate such with the existing community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that an extension of the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the Kent Town Code, thus protecting and furthering the public interest, health and safety.

Section 2. Scope of Moratorium.

There is hereby adopted in the Town of Kent a moratorium on the consideration, receipt or grant of temporary permits, pursuant to Chapter 63 of the Town of Kent Town Code entitled "Soil Removal", for the excavation of sand, gravel, topsoil, rock or other natural materials for an additional six (6) month period commencing on the effective date hereof.

During the term of the moratorium, the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate Soil Removal and ensure that any mining conducted within the Town is consistent with the terms and goals of the Town's Comprehensive Plan.

While the moratorium is in effect, no applications pursuant to Chapter 63 shall be accepted and no temporary permits issued or approvals given by the Town Board except as authorized pursuant to Section 3, below.

Section 3. Exemptions, Variances and Appeals.

This moratorium does not apply to residential activities requiring permits on residential properties.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this Local Law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer variance applications exclusively to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation

districts and other areas of environmental concern.

B. The impact of the proposed application on the applicant's premises and upon the surrounding area.

C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Kent.

E. The written opinion of the Town of Kent Planning Board and the Town of Kent Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.

F. Evidence specifying in detail the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.

G. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of Kent Zoning Ordinance and the recommendations of the Comprehensive Plan as such may exist.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee as set forth by resolution of the Town Board, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

Section 4. Penalties.

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent

offense within a three-month period shall be punishable by a fine of not more than Two Thousand Dollars (\$2,000) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including but not limited to attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Section 5. Application.

The provisions of this local law shall apply to all real property within the Town of Kent, and all applications for the excavation of sand, gravel, topsoil, rock or other natural materials pursuant to Chapter 63 of the Town Code.

Section 6. Conflicts with State Statutes and Local Laws and Authority to Supersede.

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with the provisions of the New York State Town Law or any local ordinance, law, or regulation, this local law supersedes, amends, and takes precedence over the Town Law and such local ordinances, laws or regulations, pursuant to the Town's municipal home rule powers pursuant to Municipal Home Rule Law § 10 and § 22 to supersede any inconsistent authority. Pursuant to the same powers, and without limiting the generality of the foregoing, this local law supersedes the provisions contained in (a) Article 8 of the Environmental Conservation Law (known as the State Environmental Quality Review Act) and the regulations thereunder to the extent that such provisions require that an agency determine the environmental significance of an application within certain specified timeframes; and (b) Town Law § 267 and § 267-a through c, pertaining to the variance authority of the board of zoning and appeals.

Section 7. Validity and Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Kent

hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 8. SEQRA Review.

The adoption of a moratorium constitutes a Type II action under 6 NYCRR Part 617, and therefore requires no further review under the State Environmental Quality Review Act (SEQRA).

Section 8. Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and shall remain in force for a consecutive period of six (6) months from its effective date, unless extended by local law adopted after public hearing upon no less than five (5) days public notice.

Dated: _____, 2021

BY THE ORDER OF THE TOWN BOARD OF

THE TOWN OF KENT