

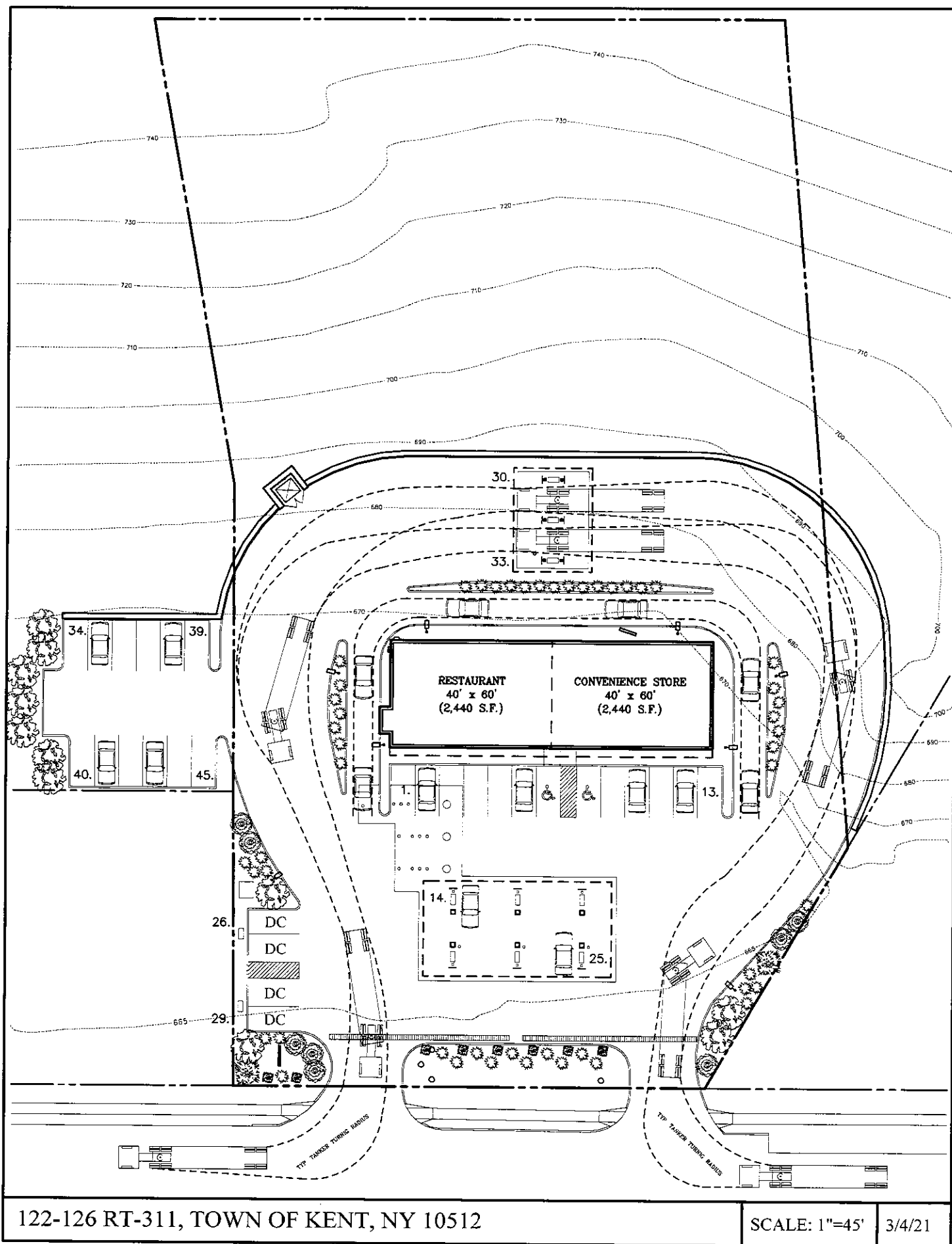
**TOWN OF KENT
TOWN BOARD MEETING
Tuesday, March 16, 2021**

Executive Session: 6:30 p.m.

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

Workshop/Meeting: 7:00 p.m.

1. Pledge of Allegiance
2. Roll Call
3. Discussion and/or Vote on the following:
 - a. Conceptual Plan for 126 Route 311 - Chestnut Petroleum Distributors (CPD Energy Corp)
 - b. Recreation – intro of new programs, acceptance of donations, hiring of seasonal workers
 - c. Mining Discussion
 - d. Police Department Panel Reform Plan
 - e. Lake Carmel Fire Department – service awards contract
 - f. Lake Carmel Park District Advisory Board– new member
 - g. Highway – sale of truck to LCPD, MOA for MEO-Welder title
 - h. Acceptance of On call Services Bids
 - i. Sewer District – generator service agreement, camera inspection of collection system
 - j. Town of Kent Health Emergency Plan
 - k. Acceptance of LISC Grant
 - l. Retirement recognition – Bruce Benjamin, Christopher Morris
 - m. Approval of Vouchers and Claims
4. Announcements
5. Public Comment







Tamara Harrison

From: Recreation
Sent: Friday, March 12, 2021 9:31 PM
To: Tamara Harrison
Cc: Maureen Fleming; William Huestis; Paul Denbaum; Jamie McGlasson; Christopher Ruthven; ntag@hoganandrossi.com
Subject: For 3/16 Agenda: New Rec Programs
Attachments: New Programs Spring 2021.pdf; Application - Gina Sampson.pdf

Hi Tamara,

As per my discussion with you and Maureen over the past few weeks, I'd like to add to the agenda for 3/16 the presentation of 3 new programs to be run this spring and beyond. Those programs and my recommendations are as follows, with complete details and forms attached to this e-mail.

Zumba Kids & Zumba Kids Jr.

This program will follow the nationally accredited lesson plans created by Zumba Fitness, LLC. Legally, these classes can only be run by certified and insured Zumba Kids / Zumba Kids Jr. instructors. It is my request that we approve Bri LaVoie of Lake Carmel - who is qualified to run both of these programs and is capable of providing us with adequate insurance through Zumba Fitness, LLC - to be paid \$60 per child per season for the spring, summer and fall sessions of this program. We will charge a total registration fee for the program of \$75 per child, the remaining \$15 of which will be Kent Recreation revenue. This puts the registration costs and revenue generation on par with our current gymnastics and martial arts programs.

Story Time Adventures

This program was brought to us by Gina Sampson, who although is not a Kent resident has connections in our community and has been present at many of our events. She is an artist as well as a former volunteer and employee at an adult care center and a pre-school where her focus has been doing arts and crafts with children. The program she presented us with will be both a story time and arts program where children 1 to 4 years old will enjoy a story read by Gina and then, under Gina's guidance, will get to complete a craft related to the story. Parental involvement is required.

Through discussions and interactions with Gina it is totally evident that she is passionate about arts and working with children. It is my belief that her program would be a great and popular addition to our offerings for the spring, summer and fall. Furthermore, it will be yet another step forward in offering more for the toddler age groups. I would like to request that we hire Gina, who's application is attached, as Coordinator of our Toddler Arts & Crafts program at a rate of \$50 per child per season. If approved we will charge \$75 per child per season, the remaining \$25 of which will be Kent Recreation revenue and will cover crafts supply costs. This also puts the registration costs and revenue generation on par with the programs mentioned above.

Toddler Tunes

Although not our first time running this program, we've made some significant changes that warranted the program being brought before the board. Previously this program was run jointly by Kent Rec and the Kent Public Library, however as part of our agreement the program was entirely funded by the Kent Public Library (they covered payments to their musician Marlana and purchased toy instruments whereas we handled

registrations, advertising and the program took place at the Ryan's Park). We charged a nominal fee of \$25 to cover our administration of the program, but that was it.

This year though we have come to the following agreement with the library:

- 1) Their musician Marlana Filannino will still serve as the program instructor. The program will follow her design and plans.
- 2) Marlana's standard rate is \$50 per hour. Thus, considering that this program will run 2 hours a day, 2 days a week, for 6 weeks, her total stipend would be \$1200 for each season in which we run the program. We have agreed with the library to split this cost 50-50.
- 3) Keeping with library practice and policy however, they would like to make sure that their \$600 contribution will go towards reducing the cost of this program for participants as much as possible.
- 4) With that said, taking all of those things into consideration we have agreed to charge \$50 for the program as opposed to \$75, which is our standard for that type of program. The \$25 difference is being offset by the library's \$600 payment to Marlana.
- 5) Kent Recreation would then be responsible for paying Marlana \$600, with all other intake serving as revenue and the coverage of nominal toy instrument costs. We had over 25 participants during the fall and are expecting more this season, meaning that Kent Recreation will certainly be able to cover Marlana's \$600 stipend.

With that said, after the success of last season's program, I would like to request that we approve a seasonal payment of \$600 to be made to Marlana Filannino for her head role in our Toddler Tunes program, a joint effort with the Kent Public Library.

Okay, so I believe that covers everything. Should anyone have any questions about any of these programs please let me know. Have a nice weekend everyone.

Jared Kuczenski
Director of Recreation & Parks
Town of Kent, New York
845-531-2100

ZUMBA® KIDS **JR.**

Perfect For

Perfect for our younger Zumba® fans! Kids 4-6 years old get the chance to socialize with friends and jam out to their favorite music.

How It Works

Zumba® Kids, Jr classes are rockin' high-energy dance parties packed with kid-friendly routines. We break down steps, add games, activities and cultural exploration elements into the class structure.

Benefits

Helps develop a healthy lifestyle and incorporate fitness as a natural part of children's lives. Classes incorporate key childhood development elements such as leadership, respect, team work, confidence, self-esteem, memory, creativity, coordination, balance, cultural awareness.

Source: Zumba.com

ZUMBA® KIDS

Perfect For

Perfect for our younger Zumba® fans! Kids 7-11 years old get the chance to be active and jam out to their favorite music.

How It Works

Zumba® Kids classes feature kid-friendly routines based on original Zumba® choreography. We break down the steps, add games, activities and cultural exploration elements into the class structure.

Benefits

Helps develop a healthy lifestyle and incorporate fitness as a natural part of children's lives by making fitness fun. Classes incorporate key childhood development elements like leadership, respect, team work, confidence, self-esteem, memory, creativity, coordination, cultural awareness.

Source : Zumba.com

**Story Time Adventures
Proposal 1-2 years old**

Gina Sampson

Opening

Song-

Hands Go Up
(Tune of Twinkle Twinkle Little Star)

Hands go up, and
Hands go down!
I can turn myself around.
I can stand up
On one shoe.
I can listen.
So can you!
I can sit.
I'll show you how!
Story time is starting now!

Song: Shake your sillies out (Various artist)

Books:

The Pout-Pout Fish by Deborah Diesen

Craft: Bouncy ball stamped fish

Supplies: Spiked gel bouncy ball, blue paint, wax paper, black sharpie, white construction paper, glue

Plant the Tiny Seed by Christie Matheson

Craft: Planting flowers

Supplies: Little seed pots/clear plastic cups (Oriental Trading?). Bag of soil, Flower seeds, Spring stickers for pot/cup design, and bottled water.

One Fish Two Fish Red Fish Blue Fish by Dr. Seuss

Craft: Fish handprints in a fish bowl

Supplies: Construction paper (white), Red and blue paint, googly eyes, glue, black sharpie

Chicka Chicka Boom Boom by Bill Martin Jr. and John Archambault

Craft: Hand print tree

Supplies: Construction paper, Green paint, foam/puffy alphabet sticker letters

The Pigeon Needs A Bath by Mo Willems

Craft: Dry erase Pigeon Cleaning Activity

Supplies: Cut the pigeon out of construction paper and laminated it. Laminating machine or self laminating sheets, washable markers to dirty up our pigeon, Sponge, paper towels to wash the pigeon.

Song Cubes- Children roll the cubes and we sing and dance to the song.

Finger Puppet Glove (velcro tip gloves with felt animal) to sing 5 little "monkeys jumping on the bed"

Handout: Printable small monkey on cardstock glued to popsicle stick

Closing:

Rhyme-

Tickle the Clouds

Tickle the clouds.

Tickle your toes.

Turn around and touch your nose.

Crouch down low.

And reach up high.

Storytime's over-

Wave goodbye!

Bubble machine with music and dancing.

Adventures
Story Time and Craft Proposal
3+ 4 year olds

Gina Sampson

Opening

Song-

Hands Go up

(Tune of Twinkle Twinkle Little Star)

Hands go up, and
Hands go down!
I can turn myself around.
I can stand up
On one shoe.
I can listen.
So can you!
I can sit. I'll show you how!
Story time is starting now!

Books:

The Rainbow Fish by Marcus Pfister

Craft- Paper plate fish craft

Supplies- paper plates, googly eyes, construction paper, glue, paint, shiny decals/confetti

Don't Let the Pigeon Drive the Bus by Mo Willems

Craft- Popsicle bus with handprint pigeon

Supplies- Yellow Popsicles, Blue construction paper/Blue paint, red paint, scissors, googly eyes

Pete the Cat and the Perfect Pizza Party by Kimberly and James Dean

Crafts- Make your own pizza

Supplies- Round Pizza cut out, Construction paper for toppings, toppings cutouts, glue Pre cuts for children to glue)

The Hungry Caterpillar by Eric Carle

Craft- Caterpillar necklace

Supplies- Dyed pasta (which would be done prior), Red, yellow and green construction paper, yarn, Elmer's glue, single hole punch

If you give a Mouse a Cookie by Laura Numeroff

Craft- Paper plate chocolate chip cookie

Supplies- Paper plate, brown and black paint

Plant the Tiny Seed by Christie Matheson

Craft- Planting flowers

Supplies- Little seed pots/clear cups (oriental trading), Bag of soil (depending how many children), Flower seeds, Spring stickers, and bottle water

Closing

Rhyme-

Tickle the Clouds

Tickle the clouds.
Tickle your toes.
Turn around
And touch your nose.
Crouch down low.
And reach up high.
Storytime's over-
Wave goodbye!

Bubble Machine

Tamara Harrison

From: Recreation
Sent: Friday, March 12, 2021 7:33 PM
To: Tamara Harrison
Cc: Maureen Fleming; William Huestis; Paul Denbaum; Jamie McGlasson; Christopher Ruthven
Subject: For 3/16 Agenda: Acceptance of Donations for Egg Hunt

Hi Tamara,

I would also like to add to the agenda for 3/16 the acceptance of two donations for our Easter Egg Hunt, scheduled to take place next Saturday the 20th (with a rain date of the 27th). George Anderson of Anderson Carpentry in Hopewell Junction has donated \$200 in candy to be given out during the event and Brittany Alvarez of J. Phillip Real Estate has donated \$300 to be used for eggs and giveaways. These donations are incredibly generous and during a time when many businesses are struggling, is a true testament to their dedication to our community. It is not the first time either George or Brittany have so graciously given to Kent Recreation and I'd like to take a few minutes during our next meeting to not only accept their donations but also acknowledge their generosity.

Thanks, and should anyone have any questions please let me know. Have a great weekend everyone!

Jared Kuczenski
Director of Recreation & Parks
Town of Kent, New York
845-531-2100

Tamara Harrison

From: Recreation
Sent: Friday, March 12, 2021 7:23 PM
To: Tamara Harrison
Cc: Maureen Fleming; William Huestis; Paul Denbaum; Jamie McGlasson; Christopher Ruthven
Subject: For 3/16 Agenda: Hiring of Seasonal Help
Attachments: Austin Fikaris & Jose Rodriguez Applications.pdf

Hi Tamara,

As per my discussions with you and Maureen earlier in the week, I would like to request that we re-hire two seasonal workers for this year, with a start date of Monday, April 12th. The two employees are Austin Fikaris and Jose Rodriguez, who have provided up-to-date applications which are attached to this e-mail. Both Austin and Jose have proven themselves to be assets to our seasonal staff and we are most certainly thrilled to be able to welcome them back again this year. To keep consistent with other town departments I would like to request that both of them be paid \$13.00 an hour on weekdays and then our usual rate of \$15.00 per hour on weekends.

Should anyone have any questions about either individual, please let me know. Thanks, and have a great weekend!

Jared Kuczenski
Director of Recreation & Parks
Town of Kent, New York
845-531-2100

TOWN OF KENT
AMENDMENT TO
CHAPTER 77 AND CHAPTER 63 OF THE KENT TOWN CODE

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

Section 1. Chapter 77 of the Kent Town Code entitled "Zoning", is amended to add a clarification to the Supplementary Use Regulations as follows:

§ 77-40 Prohibited uses in all districts.

Any other provisions of this chapter notwithstanding, and except as provided hereinafter, the following uses shall be prohibited in all districts.

- A. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution; or by reason of the deposit, discharge or dispersal of liquid or solid wastes, in any form, in a manner or amount so as to cause permanent damage to the soil or any stream or to adversely affect the surrounding area; or by reason of the creation of noise, vibration, electromagnetic or other disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates; or which involves any dangerous fire, explosive, radioactive or other hazard, or which can cause injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or the general welfare.
- B. Lighting facilities of any kind with light sources visible beyond the lot lines.
- C. Junkyards, auto wrecking yards or dumps, except a dump established as an official Town dump by the Town Board.
- D. Mobile home parks.
- E. Manufacture or storage of ammunition, explosives or fireworks.
- F. Satellite dish antenna greater than one meter in maximum diameter in a residential district or greater than two meters in maximum diameter in a nonresidential district.
- G. The omission of a use or type of use from these regulations shall be deemed to be an exclusion thereof from all districts.**

Section 2: Chapter 63 regarding Soil Removal is hereby amended to add the following provisions:

§ 63-1 Temporary permit.

The Town Board may grant a temporary permit for the excavation of sand, gravel, topsoil, rock and other natural material in accordance with the standards and procedures established in this chapter.

§ 63-2 Application procedures; fee; map and plan.

A temporary permit may be issued upon the filing of a written application with the Town Board, together with all applicable fees as set forth in § 63-2.1 and a map and plan prepared by and bearing the seal of a land surveyor or professional engineer duly licensed to practice in the State of New York, said map and plan to designate the following:

- A. Existing contour lines on the premises and proposed contour lines resulting from the intended excavation or removal of soil, shown on a map drawn to a scale of not less than 100 feet to the inch and with a contour interval not to exceed two feet.
- B. Existing and proposed drainage on the premises.
- C. Existing rivers, streams or watercourses on or adjacent to the premises.
- D. Adjoining properties and streets.
- E. Proposed truck access to the property.
- F. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of the Town of Kent Code, Chapter 66, Articles IV and V. The SWPPP shall meet the performance and design criteria and standards in Chapter 66, Article IV. The approved permit shall be consistent with the provisions of Chapter 66.
- G. Such additional information as the Town Board may deem necessary in order to decide upon such application.

§ 63-2.1 Application fees.

All applications for a soil removal permit shall be accompanied by a fee which shall cover the reasonable cost associated with the processing and review of any such application submission or request, excluding SEQRA processing and review fees as set forth in Subsection E below.

- A. All application fees shall be nonrefundable and shall be in an amount set forth in a fee schedule established, and amended from time to time, by resolution of the Town Board. No fees shall be required from the Town or any of its districts. Fees shall be paid to the Town of Kent by certified check.
- B. The Town Board, in the review of any application presented to it, may refer such application to any planner, engineer, environmental expert, legal counsel or other

professional as such Board shall deem reasonably necessary to assist it in the review of such application as required by law. Fees charged by such professionals shall be in accordance with fees usually charged for such services in the metropolitan New York region and pursuant to a contractual agreement between the Town and such professional. All such charges shall be paid by the Town upon submission of a Town voucher.

- C. The Town Board may suspend its review of an application if all required fees are not paid to the Town of Kent. A building permit or certificate of occupancy or use shall not be issued unless all applicable fees charged in connection with the applicant's project have been paid to the Town.
- D. No application or request shall be deemed complete for review purposes without payment of any and all applicable fees.
- E. In the event that a positive declaration is issued by the approval authority, in accordance with the provisions and procedures of the New York State Environmental Quality Review Act (SEQRA), regarding the subject application, the following procedures shall be followed for that portion of the application review process:
 - (1) The approval authority may require the establishment of a SEQR escrow account funded by the applicant, from which withdrawals shall be made to reimburse the Town for the cost of professional review services. An applicant, upon request, shall be provided with copies of any voucher for such services as they are submitted to the Town. Such reimbursable costs shall be in addition to any and all other required fees by this or any other section of this chapter or any other Town law, ordinance or regulation.
 - (2) The applicant shall deposit with the Town SEQR escrow account funds as follows:
 - (a) The applicant shall deposit an initial escrow amount to be determined by the approval authority based on its evaluation of the nature and complexity of the application and the pending SEQR process. Said initial escrow amount is only an estimate and is for the convenience of the applicant, and shall not be binding upon the approval authority.
 - (b) When the balance in a SEQR escrow account is reduced to 1/2 of the initial escrow amount, the applicant shall deposit additional funds into such account to bring its balance up to 100% of the amount of the initial escrow amount, or to some lesser amount as deemed acceptable by the approval authority to complete the environmental review of the application. If such escrow account is not replenished within 20 days after the applicant is notified, in writing, of the requirement for such additional deposit, the approval authority may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued and no approval of plats, subdivisions, site plans, conditional use permits, special permits or any and all other development activities authorized by this chapter which are at the request of an applicant shall be granted unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town.
 - (c) SEQR escrow fees shall not exceed the amounts allowed pursuant to SEQR 6 NYCRR Part 617, as may be amended from time to time.

- (d) After all pertinent professional service charges have been paid, the Town shall, upon request, refund to the applicant any funds remaining on deposit in the SEQR escrow account.
- F. Collection of fees. All required fees shall be collected by the Clerk or Secretary of the Board having jurisdiction over the application.

§ 63-3 Public hearing.

The Town Board, upon receipt of the completed application as aforesaid described, shall hold a public hearing after publication of notice thereof in the paper designated by the Town Board at least 10 days prior to the hearing. The applicant is to receive 10 days' notice of the hearing by mail. The contiguous and adjacent property owners shall be notified by regular mail by the Town Clerk.

§ 63-4 Conditions of issuance.

- A.** The Town Board shall approve, modify and approve or disapprove the application within 30 days and may grant a temporary permit, not exceeding one year, if it shall find that such excavation will not result in an ecological change which is detrimental to the area in question, or the creation of any sharp declivities, pits or depressions or unsightly conditions, soil erosion, the destruction of the fertility of the land, depressed land values, or create any drainage or sewerage problems or other conditions which would impair the use of the property in accordance with the Zoning Ordinance, and that such excavation will be in harmony with the general purpose and intent of the Zoning Ordinance, and if the Town Board further finds that the operation to be permitted is capable of being completed within the time provided in the permit.

B. No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.

(1) A building permit for a building and/or its accessory structures shall be deemed to be a permit for such excavation and/or landfill necessary for the construction of that building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed two times the volume of the cellar and foundation of the dwelling and/or accessory structures for which the building permit was issued. The Building Inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.

(2) In those cases where the Planning Board has approved, with or without conditions, the construction plans for proposed streets and drainage facilities in new subdivisions and site plans, the approved construction plans shall be deemed to be a duly issued permit for such operation within the rights-of-way and slope rights of the proposed streets and areas reserved for drainage facilities as may be necessary for their establishments, provided that if there is to be removal of excavated material, said removal shall be disclosed as an integral part of the approved plan

and duly endorsed thereon. All operations outside such street rights-of-way and slope rights and drainage facilities shall be subject to the permit and approval requirements of this subsection.

C. Exception. Municipal and other public operations. The provisions of this subsection shall not apply to operations of or conducted by the Town of Kent, County of Putnam or State of New York or any department or agency thereof.

D. Review procedure. The Town Board, in making its determination, shall report whether or not the proposed operation meets the following criteria:

- (a) That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to it are such that, upon completion of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.
- (c) That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located.

§ 63-5 Performance of work.

A temporary permit shall be granted subject to the work's being performed according to the following standards and conditions:

- A. The premises shall be excavated and graded in conformity with the proposed contour plan as approved.
- B. Slopes shall not exceed 15° to the horizontal or such lesser slope that the Town Board may specify as necessary for the public health or safety, soil stability or for the reasonable use of the property after completion of the excavation.
- C. No fixed machinery shall be erected or maintained in connection with the excavation and no building shall be erected on the premises except temporary shelters for machinery and a field office.
- D. There shall be no excavation or removal within 100 feet of any street or property line, except that where the property to be excavated is considerably above street grade at the street line, removal may take place at a lesser distance from the street line if approved by the Town Board.
- E. There shall be no sharp declivities, pits or depressions, and proper drainage will be provided to avoid stagnant water, soil erosion and water pollution during and upon completion of operations.
- F. After excavation or removal, the premises shall be cleared of debris within the time provided in the permit.

Town of Kent Planning Board
25 Sybil's Crossing
Tel: 845-225-7802

email: planningkent@townofkentny.gov
Kent, NY 10512
Fax: 845-306-5283

February 16, 2021

Supervisor Fleming and
Members of the Town of Kent Town Board
25 Sybil's Crossing
Kent Lakes, NY 10512
Attn: Maureen Fleming, Supervisor

**Re: Town of Kent Planning Board Comments about the
Resolution and Local Law regarding Zoning and Soil Removal**

Dear Supervisor Fleming and Town Board Members:

We have received the Resolution and Local Law regarding Zoning and Soil Removal dated January 19, 2021. The Planning Board discussed the resolution and local law at its workshop meeting on February 4, 2021, hearing thoughts and comments from Planning Board members and also the Board's environmental, engineering and planning consultants. Our comments below are intended to provide the Town Board with the Planning Board's comments, observations and questions. These are based in part on the Planning Board's extensive experience in using and implementing the Code of the Town of Kent, Chapter 77, Zoning in its review of all types of land development. The Planning Board is also very familiar with the Code chapters dealing with freshwater wetlands (Chapter 39A); steep slope protection and stormwater management (Chapter 66); and subdivision of land (Chapter 66A).

As noted at the end of our letter, the Planning Board recommends a joint Town Board and Planning Board meeting to discuss the Town Board's Local Law regarding Zoning and Soil Removal.

General Issues/Questions:

1. The IOC (Industrial Office Commercial) zoning district is in an area of substantial natural resource limitations. Specifically, the Route 52 corridor in this area has substantial areas of steep slopes and rock outcropping. As a result, entities seeking to develop in this area will of necessity consider substantial land disturbance including mining and soil removal to be required.
2. Clarification is needed about the intent of the proposed local law with regard to the concept of use or uses. Many land development projects include earthmoving and land contouring activities such as grading and excavation, sometimes involving rock removal. Such activities may be associated with the development of a single-family home on an existing lot as well as larger-scale land development projects. Regardless of the size of

such developments, such application would typically include information about the volumes of: materials excavated, materials to be used on site, and the resulting balance of the volumes of such materials. Standards for land development would typically focus on the appropriate balance of excavation, encouraging the use of materials on site and discouraging removal of large amounts of material from a site. The focus of these standards would be related to the environmental effects of excavation, the potential change in community character near a site, safety issues related to truck traffic, noise, dust, etc. However, land contouring, grading, etc. is often viewed in regulations as an activity related to land development, but not a use in and of itself. So, it is not typical for the standards related to excavation or earthmoving to hinge on whether such activity is related to financial gain.

3. The requirement stated in existing zoning provisions in 77-6, subparagraph G., and proposed to be added to section 77-40, as new subsection G. pertain to uses and not necessarily to activities associated with land development that would result in a use. If the intent of proposed subsection 77-40. G. is to prohibit extensive excavation or mining, then mining or related terms must be defined. The intent is not clear.
4. There is no provision for mitigation to offset to the degree possible of the mining and soil removal activities. This would include tree replacement, preservation of ground water supplies (e.g., well water), etc. Additionally, there is no provision to provide benefits to the town/residents to offset impacts, such as reclamation to create a usable site that might result in property tax revenue. Such provisions should be added.
5. The Planning Board has extensive experience in environmental and site plan review. The Board feels it is prudent to develop a shared approach to mining review. The Town Board would be the permitting agency and refer the SEQRA review and environmental significance determination to the Planning Board.
6. Would it be clearer if the Town Board considered repealing Town of Kent Code Chapter 63 and incorporating the regulations into Chapter 77, Zoning, Article XII "Supplementary Use Regulations"?
7. How does the draft local law comport with NYCDEP stormwater (erosion and sediment control) threshold (5,000 square feet of soil disturbance) requirements (Chapter 66 of the Town Code)?

Specific Review:

Chapter 77. Zoning

8. Regarding the proposed amendment to zoning section 77-40. Prohibited uses in all districts. To add subsection G., there is a concern about duplication of language within zoning. Similar language is found in Chapter 77. Zoning, section 77-6. Effect of establishment of districts., G., which reads: "Uses. Following the effective date of this chapter, any use not identified or listed as an allowed use in the district on which a proposed or existing building(s) or lot(s) is located shall be deemed to be a prohibited use. No building or lot shall be used for any purpose or in any manner except in conformity with the regulations, requirements and/or restrictions specified in this chapter

for the district in which such building or lot is located." Section 77-6 provides parameters for use generally. Review proposed section 77-40. G. to prevent conflicting language.

Chapter 63 Soil Removal

9. Consider revising the title of Code Chapter 63 to be "Soil Removal, Excavation and Mining".
10. A regulatory code chapter would typically begin with some sort of declaration of policy, stated purposes or intent. Chapter 63 should be revised to include at the beginning of the Chapter, a declaration of policy, stated purposes or intent. By way of example, the Town Board should examine:
 - a. Code Chapter 39A Freshwater Wetlands, section 39A-2;
 - b. Chapter 66 Steep Slope Protection and Stormwater Management, section 66-2;
 - c. Chapter 66A Subdivision of Land, Section 66 A-1; and
 - d. Chapter 77, section 77 dash 2, which also includes reference to the town's comprehensive plan.
11. Existing Code Chapter 63 appears to be the only set of Town of Kent regulations that deals with excavation for the purpose of excavation only for removal of materials without corresponding land development project and/or construction of buildings and related improvements. Since it is not clear that Chapter 63, even if amended, would pertain to other types of activities or activities related to land development, a section should be added to the beginning to define applicability, for example:

"63- _ Applicability

All properties in the Town for which were the subject of a complete application to the relevant Town Agency at the time of adoption of this local law are exempt from the provisions of these amendments. A complete application is defined as an action for which a Negative Declaration has been issued or a Draft Environmental Impact Statement (EIS) has been accepted."

12. Similarly, add a section at the beginning of Chapter 63 about conformance, for example:

"63- _ Conformance required; exceptions

No regrading, removal or excavation of topsoil or other natural resources from any property in the Town of Kent, New York, shall be commenced or carried out unless a permit therefore has been duly issued in accordance with the procedures set forth herein or except as necessary for proper operation of a municipal sanitary landfill. These provisions shall not be construed as prohibiting or limiting normal use of land for farming, gardening, or selective cutting of trees as it is related to agricultural or horticultural uses in any zoning district where such uses are permitted.

The permit procedures of this chapter shall not apply to the extractive mining of natural resources, if such activity involves more than 1,000 tons or 750 cubic yards of natural resources, whichever is less, within 12 consecutive calendar months, the activity of this

dimension, is covered under and is subject to Article 23, Title 27, of the Environmental Conservation Law (the "Mined Land Reclamation Law"), or proposes the mining of over 100 cubic yards of natural resources from or adjacent to any body of water not subject to the jurisdiction of Article 15 of the Environmental Conservation Law."

13. Section 63-1, includes the term "Temporary permit", which must be defined, and the duration, enforcement and conditions of suspension and revocation identified. Does the Board wish to consider a special use permit?

14. Consider defining the term "operation" or "operations" in references to soil removal, excavation and mining and using the term throughout the law, since most such activity precedes land development for a use on a site. Another term would be "activity".

15. The paragraph at 63-1 should be expanded to incorporate referral to the Planning Board as follows:

"The Town Board in the review of any application presented to it shall refer such application to the Town of Kent Planning Board for review and recommendation including SEQRA processing of the application. The Planning Board shall complete the SEQRA process and shall return a report with recommendations and any conditions to the Town Board for their consideration in the issuance of the temporary permit. Upon issuance of the temporary permit by the Town Board, the Applicant shall return to the Planning Board for issuance of a relevant land use or other approval necessary for proper implementation and completion of the permit."

16. Add to section 63-2 to require submittal of the following:

- a. A statement of proposed work and the purpose thereof, including estimates for proposed site improvements and an estimate of a maximum quantities of materials to be excavated and/or removed; used for regrading or fill on-site.
- b. The plan shall include: a location map; a tree survey for trees greater than six inches diameter at breast height (6" dbh); areas of rock cropping; Town of Kent jurisdictional wetlands, watercourses and waterbodies and their corresponding buffers; and a rock removal and blasting plan.
- c. Property information including the address and property owner(s) name(s) and address(es) and authorization for others to represent the owners, area of site, tax parcel information, area of proposed disturbance, rights of way, easements, annotations of land title restrictions that may have an effect on the proposed activity.
- d. Add to section 63-2. D. the Adjoining owner's names and tax parcel data; and improvements within three hundred feet (300') of the site boundary.
- e. Add to section 63-2. E, regarding truck access, add language to address access location relative to sight distance and safety; as well as tracking pads and hose down facilities.
- f. Include provisions for buffering from adjoining properties including plantings and fencing.

- g. Insert a subsection between the truck access and stormwater subparagraphs to read "Construction details, including plans and profiles of existing and proposed slopes, summary of proposed volumes of topsoil, subsoil, rock to be excavated and removed."
- 17. Section 63-2 must include the requirements of Zoning Article XXII Environmentally Sensitive Lands; and Article XXIII Soil Hydrology. Alternatively, add reference to and require that these provisions must be addressed.
- 18. A requirement for a reclamation plan must be incorporated in section 63-2, after the stormwater pollution prevention plan requirement; and before the "Such additional information ..." subparagraph. We recommend the following language:

"All permits issued hereunder shall include an approved reclamation plan for the entire parcel of land impacted by the material removal activities. The reclamation plan should contain sufficient information to properly rehabilitate the site including but not necessarily limited to final grades, cover material, and vegetative type, final disposition of all access drives and entry points and any onsite structures.

Reclamation plans shall include interim reclamation areas (or steps) so that reclamation may take place concurrently with ongoing material removal activities and that as sections are completed restoration may immediately follow.

Proposed reclamation plans should be consistent with the community's land use regulations. In the event that any proposed reclamation plan includes a use or activity which requires a further land use approval for proper implementation such as site plan and or special use permit, obtaining that approval shall be a condition of permit issuance."

- 19. In section 63-4, the highlighted areas, which are apparently proposed provisions, the intent is unclear. Is the town looking to prohibit mining or to permit? This does not seem to be consistent with the remaining areas of the ordinance.
- 20. The beginning of section 63-4. Conditions of issuance, must be revised to insert a phrase so that first line would read as follows:
"The Town Board, upon receipt of a recommendation from the Town Planning Board, shall approve, modify and approve or disapprove the application within 30 days and may grant a temporary permit, not exceeding one year, ..."
- 21. Revise proposed section 63-4. C regarding exceptions to add "Public Utilities" to the exception.
- 22. Revise section 63-4, so that if the mining activity is anticipated to be greater than one year or is approved to be sequenced, there will be provisions to accommodate or extend such activity.
- 23. Revise section 63-4 to insert the following provisions related reclamation plans:
"In those situations where the Planning Board has approved or approved with conditions a site plan, special use permit or other similar permit (Wetland or Steep Slope and Erosion Control Plan approval) for a commercial, industrial or multifamily residential project the final plan set signed by the Planning Board Chairman together with all related,

permits, approvals, bonds and agreements shall be deemed to constitute a permit under this section with the approved development reflected thereon serving as the requisite reclamation plan."

24. Revise section 63-4 to insert the following provisions for performance bonds and insurance:

"Performance bond

Before issuance of any approval for any activity subject to issuance of permit under this section, the Town Board shall require that a performance bond be filed by the applicant with the Town Clerk. This bond shall be secured by a letter of credit or surety bond in favor of the Town in the amount of at least \$2,000 per acre of approved mining area. All bond amounts shall be calculated by the Town Engineer, who shall report said recommendations to the Town Board.

The bond shall be conditioned that any affected land shall be restored in conformity with the approved reclamation plan and the standards set forth by this section.

In the event of default in compliance with the reclamation plan or the terms of this section, the letter of credit or surety bond shall be forfeited to the Town.

The Town shall return to the operator any bonded amount that is not needed to cover the expenses of restoration, administration and any other expenses reasonably incurred by the Town as a result of the applicant's failure to comply with the terms of the reclamation plan of this section.

Said bond shall continue in full force and effect until a certificate of compliance releasing the bond shall have been issued by the Town Zoning Administrator.

In the event of a proposed transfer of a reclamation permit, the Town Board shall require the filing of a certificate from the surety company issuing the bond then in effect, continuing the same bond as to the new permit holder or certifying that a new bond has been issued. In the absence of such certificate, no transfer of a permit will be allowed.

The required bond amount pursuant to this subsection shall be reviewed on a yearly basis to assure that a fair and reasonable bond is available to the Town should any default in performance of the requirements of the permit or this section occur.

At its discretion, the Town may accept cash or certified check, negotiable bonds of the United States government, United States Treasury notes, United States Treasury certificates of indebtedness, United States Treasury bills, bonds or notes of the State of New York, bonds of any political subdivision in the agency or of other New York State agencies or authorities, or bonds of public corporations of the State of New York, and irrevocable bank letter of credit, a certificate of deposit, or other forms of financial

security acceptable to the Town. Acceptable substitutes, if furnished, shall be kept on deposit with the Town Clerk for the duration of the bond period. Any cash received pursuant to this section shall be maintained in an interest-bearing account, which interest shall accumulate during the life of the account and shall be refunded to the depositor when the cash is refunded.

<https://ecode360.com/6414462> - 6414462

The Town Board may waive part, or all of the performance bond amounts and requirements hereunder to the extent that it determines that any reclamation bond required by the Department of Environmental Conservation will adequately safeguard the Town's interest in proper operation and reclamation of the site.

Insurance

After approval of the application and before issuance of any permit, the applicant shall present to the Town certificates of insurance evidencing liability insurance coverage. The minimum acceptable liability coverage for any permitted operation shall be \$2,000,000. The liability coverage shall be maintained throughout the period of permit activity. The certificates of insurance shall provide for a thirty-day minimum notice period to the Town before cancellation of coverage."

25. Revise section 63-4 to insert the following provisions for expiration of permitted activities:

"Expiration of permit.

A. All temporary permits shall expire upon completion of the activities specified and, unless otherwise indicated, shall be valid for a period of one year from the date of issue. No original permit granted pursuant to this chapter shall be valid for a period longer than three years from the date of issue. The approval authority may extend the time in which the activities specified in the permit must be completed if, in its opinion, such extension is warranted by the particular circumstances thereof for not to exceed two additional periods of 90 days each. A request for extension shall be made in writing to the approval authority at least 30 days prior to the expiration date of the original permit, or the first ninety-day extension.

B. Should a permittee fail to complete the activities specified in the permit prior to the expiration of the second ninety-day extension, the original permit shall become null and void and a new permit must be applied for. The request for a new permit shall follow the same form and procedure as the original application except that the approval authority shall have the option of not holding a hearing if the original intent of the permit is not altered or extended in a significant way.

C. Notice of change of ownership of the parcel covered by the permit must be filed with the Town Clerk within 30 days of the transfer, with a copy of the executed deed bearing

the County Clerk filing data submitted to the Town Planning Board for inclusion in the project file. This shall be a condition attached to all permits issued under this chapter."

26. In section 63-5 Performance of work, revise to address the following:
 - a. Subsection B. should refer to "Slope shall not to exceed 1 on 1½ or 15 degrees to the horizontal, or such lesser slope that the Town Board, on receipt of recommendation of the Planning Board, may specify, as necessary".
 - b. At the end of subsection D, add the following: "... , on receipt of recommendation of the Planning Board."
27. Regarding sections 63-6 and 63-7, revise language to identify the enforcement entity or entities and provide greater details including issuance of remedy and stop work orders, definition of field changes and thresholds, civil penalties, etc. Use provisions consistent with other Kent Code Chapters. For example, Chapter 66, Steep Slope Protection, Article VII Administration and Enforcement could be modified to fit permits issued under this code. It is similar in concept, form, and effect.

Recommendations:

28. The Town Board's proposed local law should be substantially revised to address the comments herein to create a comprehensive and defensible code chapter with stated purposes, requirements, and standards, which can be implemented by the Town Board in concert with the efforts and experience of the Planning Board.
29. Alternatively, the Town Board may wish to review and consider the examples of mining and/or soil removal regulations attached to this letter from the zoning chapters of the Town of Amenia and the Town of Carmel.
30. The Town of Amenia example would result in the option of establishing overlay zones where mining would be permitted via a process involving the Town Board with referral to and recommendation from the Planning Board. Please refer to the attached code sample from the Town of Amenia. Accordingly, such mining overlay zones would only be allowed in certain areas and prohibited in other areas (e.g., residential zones).
31. The Planning Board recommends a joint Town Board and Planning Board meeting to discuss the Town Board's Local Law regarding Zoning and Soil Removal.

Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



Phil Tolmach, Chairman

Enclosures

Chapter 121. Zoning

Article IV. Overlay District Regulations

§ 121-17. Soil Mining Overlay District (SMO).

A. Findings and purpose. The purpose of this overlay district is to provide appropriate locations for soil mining conducted as a commercial enterprise unrelated to a construction project or a farm operation. As expressed in the Comprehensive Plan, the Town wishes to allow soil mining to provide jobs, produce needed building materials, and support agricultural operations, while protecting the rural peace and quiet enjoyed by Town residents. The Town of Amenia will therefore allow commercial mining only in those locations where it will help promote the Town's goals of maintaining rural character with minimum disturbance to residential neighbors. The SMO District shall be mapped only where there are sand and gravel resources that have adequate highway access, sufficient buffering from nearby residences to avoid disturbance to residential neighbors, and minimal visual impact on publicly accessible places.

B. Boundaries. The boundaries of the SMO District are shown on the Land Use and Development Overlay Districts Zoning Map^[1] and may be modified by zoning amendment consistent with the purposes in Subsection A above.

[1] *Editor's Note: A copy of said map is included at the end of this chapter.*

C. Regulatory effect on land uses.

(1) Within the Soil Mining Overlay District all of the underlying land use district regulations shall remain in effect, except those that are modified by this section or the Overlay District Use Table included at the end of this chapter.

[Added 11-20-2019 by L.L. No. 2-2019^[2]

[2] *Editor's Note: This ordinance also renumbered former Subsection C(1) through (4) as Subsection C(2) through (5), respectively.*

(2) The land within the SMO District is the only land in the Town of Amenia where new soil mines may be permitted and where existing soil mines will be allowed to renew their permits from the New York State Department of Environmental Conservation. This shall not prevent farm operations from conducting soil mining that does not require a DEC permit as provided in § 121-341, if such soil mining is conducted for agricultural purposes and not for purposes of selling material on the commercial market.

(3) All new soil mining operations or expansions of existing soil mining operations require a special permit from the Town Board, subject to all applicable special permit requirements in §§ 121-60 through 121-64 and the regulations in this section.

(4) Because the right to mine is a property right that adds considerable value to the land, the Town deems the financial return from allowing mining of land to be sufficient to justify restricting future use of the land. When the Town Board rezones a parcel of land to include it within the SMO District, the Board may require the applicant to grant a conservation easement pursuant to § 121-20K, perpetually restricting future use of the rezoned land to

mining, agriculture, forestry, and recreation, upon receipt of all necessary permits to begin the mining operation. Such conservation easement shall be granted as a condition of the rezoning and shall be held in escrow by the Town Attorney and recorded in the Dutchess County Clerk's office upon final approval of the soil mining special permit and all applicable DEC permits.

- (5) Within the SMO District, the only uses permitted by right after a mining operation is undertaken and completed shall be agriculture, forestry, and recreation. The Town Board may, by special permit, allow another use of land that has been mined, provided that the applicant has submitted a complete conservation analysis of the land pursuant to § 121-20A, that the new use is consistent with the Town of Amenia Comprehensive Plan, and that the special permit is conditional upon full reclamation of the land according to applicable requirements of the New York State Department of Environmental Conservation (DEC).

D. Soil mining regulations.

- (1) Soil mining shall be allowed within the SMO Overlay District, subject to a special permit by the Town Board, provided that the operator complies with all applicable requirements of the New York State Department of Environmental Conservation.
- (2) Any application for a soil mining special permit shall be deemed a major project if it also requires approval of a mining permit from the New York State Department of Environmental Conservation (DEC). Proposed soil mining that does not require a DEC permit shall be deemed a minor project.
- (3) An applicant for a major project special permit for soil mining shall submit copies of all applications and other materials submitted to the DEC in connection with its soil mining application.
- (4) In determining whether to grant or deny a special permit application for soil mining, the Town Board shall consider all applicable special permit criteria, including but not limited to the environmental performance standards in § 121-40. If the Town Board grants a major project special permit subject to conditions, such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions:
 - (a) Ingress from and egress to public thoroughfares controlled by the Town;
 - (b) Routing of mineral transport vehicles on roads controlled by the Town;
 - (c) Requirements and conditions specified in the permit issued by the DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control, and hours of operation;
 - (d) Enforcement of reclamation requirements contained in any DEC permit.
- (5) If the Town Board finds that the imposition of the above conditions in Subsection D(4)(a) through (d) will not be sufficient to enable the proposed soil mining operation to comply with applicable special permit criteria, it shall deny the special permit application.
- (6) The Town Board may require, as a condition of its approval, that the applicant cover the costs of inspection and monitoring of compliance with the requirements in Subsection D(4) above for the life of the mine.
- (7) In issuing a minor project special permit for soil mining, the Town Board may impose any conditions it deems necessary, including but not limited to those in Subsection D(4)(a) and (b) above.
- (8) For preexisting nonconforming soil mining operations, see § 121-27D(3).

Chapter 156. Zoning

Article III. District Regulations

§ 156-15. Schedule.

The regulations prescribed for each of the districts listed in Article I, § 156-3, are listed on the accompanying schedule entitled "Schedule of District Regulations," which schedule is hereby adopted and made a part of this chapter.^[1] Said schedule may be amended in the same manner as any other part of this chapter.

[1] *Editor's Note: The Schedule is included at the end of this chapter.*

Article IV. Supplementary Regulations

§ 156-43. Landfills, grading and excavation.

- A. General regulations. No excavation, regrading, filling, removal, stripping or disturbance of topsoil, earth, sand, gravel, rock or other substance from the ground, subsequently herein referred to as an "operation" or "operations," shall be commenced or carried on in the Town of Carmel unless, except as otherwise provided herein, a permit therefor has been duly issued in accordance with the procedure set forth elsewhere in this section.
- (1) No operation authorized under this subsection shall be permitted on Sunday or before 8:00 a.m. or after 5:00 p.m. on other days.
 - (2) No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.
 - (3) All landfill shall be clean soil, rocks or sand and shall be nonburnable and shall contain no garbage, refuse, waste or material deemed to be deleterious according to the standards of the applicable health codes.
- B. Cases where a building permit, an approved site plan or an approved subdivision construction plan is deemed a permit under this subsection.
- (1) A building permit for a building and/or its accessory structures shall be deemed to be a permit for such excavation and/or landfill necessary for the construction of that building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed two times the volume of the cellar and foundation of the dwelling and/or accessory structures for which the building permit was issued. The Building Inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.
 - (2) In those cases where the Planning Board has approved, with or without conditions, the construction plans for proposed streets and drainage facilities in new subdivisions and site

plans, the approved construction plans shall be deemed to be a duly issued permit for such operation within the rights-of-way and slope rights of the proposed streets and areas reserved for drainage facilities as may be necessary for their establishments, provided that if there is to be removal of excavated material, said removal shall be disclosed as an integral part of the approved plan and duly endorsed thereon. All operations outside such street rights-of-way and slope rights and drainage facilities shall be subject to the permit and approval requirements of this subsection.

- (3) All excavation performed without the necessity of a permit shall nonetheless conform to the general regulations contained in Subsection A(1) and (3) of this section.
- C. Exception. Municipal and other public operations. The provisions of this subsection shall not apply to operations of or conducted by the Town of Carmel, County of Putnam or State of New York or any department or agency thereof.
- D. Application procedure. Application for a permit under this subsection shall be made to the Planning Board, in writing, with 10 copies, and shall contain the following information:
- (1) The full name and address of the owner or owners of property.
 - (2) The street address, if any, and Tax Map designation of the property.
 - (3) A statement as to authority from the owner, or any person other than owner if such person is making the application, with consent of owner endorsed thereon.
 - (4) A statement of proposed work and purpose thereof.
 - (5) Accompanying said application and as a part thereof, complete plans and estimates for the proposed site improvements shall be submitted for approval. The plans shall be certified by an engineer or architect, licensed in the State of New York, and shall be drawn to a scale of not less than one inch equals 50 feet and shall show the following:
 - (a) The location of that portion proposed to be disturbed and its relation to neighboring properties, together with buildings, roads and natural watercourses, if any, within 300 feet of the boundaries of said portion of said premises herein referred to shall be shown. An inset map at a reduced scale may be used, if necessary.
 - (b) The portion of the property that is to be disturbed.
 - (c) The estimated maximum quantity to be excavated and/or removed and the estimated part thereof that will be used for regrading or filling, computed from cross sections of a proposed excavation or disturbed area.
 - (d) The location of any well and the depth thereof, and the location of natural watercourses, if any, located within 300 feet of the proposed disturbed area.
 - (e) The location of any sewage disposal system, any part of which is within 300 feet of the proposed disturbed area.
 - (f) Existing topography of the area proposed to be disturbed at a contour interval of not more than two feet. Contours shall be shown for a distance of 100 feet beyond the area to be disturbed.
 - (g) The proposed final contours at a contour interval of two feet.
 - (h) The location and present status of any previous operations of the type contemplated by this subsection on the property within the preceding five years.

- TOWN OF CARMEL, N.Y. ECODE360
- (i) The details of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof.
 - (j) If a proposed excavation is for the purpose of making a lake or pond, the details of the proposed construction of the dam or other structure or embankment intended to impound the water, together with the details and location of proposed discharge of a valved outlet for drainage purposes.
 - (k) The rehabilitation proposed and the estimate of the cost of such work, in accordance with the standards given in Subsection H herein.
 - (l) The details of all erosion controls to be implemented.
- (6) Upon the filing of an application hereunder, the applicant shall pay a filing fee established by resolution of the Town Board which shall be filed in the office of the Town Clerk.
[Amended 9-14-1988 by L.L. No. 1-1988]

E. Review procedure.

- (1) Upon receipt of an application and plans, the Planning Board shall review said application and plans in accordance with the following standards and requirements and other requirements of all other applicable local, state and federal regulations. Within 45 days after the receipt of a complete application, the Planning Board shall hold a public hearing on said application. Within 45 days after the hearing, the Planning Board shall make its determination.
- (2) The Planning Board, in making its determination, shall report whether or not the proposed operation meets the following criteria:
 - (a) That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to it are such that, upon completion of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (b) That the proposed operation will not be in conflict with any proposal in a Town Development Plan or with any requirement of this chapter.
 - (c) That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located.
 - (d) That the proposed operation will not disturb any land designated as wetlands by the Town of Carmel or the State of New York.

F. Permit. In acting on the application and in granting or denying a permit, the Building Inspector shall be directed by the report and recommendations of the Planning Board. Any permit to be issued shall be issued in accordance with the terms of this subsection, subject to any restrictions, safeguards or special conditions considered by the Planning Board to be appropriate for the proposed operation. However, no permit shall be issued until the applicant shall have posted a performance bond with the Town of Carmel ensuring conformance with the approved plans and all applicable regulations, restrictions and special conditions. Such performance bond shall become effective only if and when the Town Attorney shall have approved the same as to amount, form, surety and manner of execution.

- (1) The Building Inspector, when issuing permits, shall charge and collect a fee therefor, in addition to the filing fee previously provided for herein. Said charge shall be established annually by the Town Board and shall be on file in the office of the Town Clerk.
[Amended 11-26-1986]

- (2) Permits issued under this subsection shall expire within 12 months of the date of approval. A permit may be extended by the Planning Board for one additional period of 12 months. In making a determination on extension, the Board shall make a complete review of all plans and make an examination of all work accomplished.

G. Conduct of work. The work permitted shall be performed in accordance with the following conditions and requirements:

- (1) Regrading adjacent to property lines shall be so designed that the work will not endanger abutting property by reason of erosion, landslides or increased runoff. The Planning Board may recommend, as a condition of permit approval, such limits to the work and such supplementary drainage structures or other safeguards as it may deem to be necessary to assure such protection to abutting lands.
- (2) The proposed operation shall be so designed that the work will not cause soil erosion, flooding or increased stormwater runoff nor adversely affect wetlands within the Town of Carmel.
- (3) There shall be a maximum of two truck access drives to the site of the operation, which shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such drives shall be kept either wet or oiled or shall be treated with chemical dust deterrents or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such access drives shall be clearly marked with signs which shall be posted approximately 200 feet on both sides of such access drives or other traveled areas. Such signs shall read "Caution, Trucks Entering" and shall be of size, type, coloring, lettering and format used by the Highway Department of the Town.
- (4) All streets and highways leading to the operation shall be kept clean of all dirt, rocks and other material, and all storm drainage systems in the area of the operation shall be kept clean and in good operating condition. Violation of this condition shall be grounds for revocation of the permit by the Building Inspector.
- (5) At all times subsequent to the issuance of a permit and before completion of the final grading, as herein provided, any excavation having a slope steeper than one foot vertically for each one foot horizontally and having a depth greater than three feet or involving standing water of a depth greater than six inches shall be entirely enclosed by wooden or wire-mesh fence not less than four feet in height, measured from ground level, with a gate of the same height at each entrance thereto. If such fencing and gates are of wooden construction, each fencing board shall be separated by not more than seven inches and, if constructed of wire-mesh fencing, the mesh thereof shall not be greater than six inches by six inches. No such fence shall be so located as to obstruct visibility at the access drives. Gates shall be securely locked at all times when the project is not in operation.
- (6) Storage piles of materials, including waste material, shall at no time be located nearer than 50 feet to a property or street line or have a grade steeper than one foot vertically for each two feet horizontally.
- (7) All trucks and equipment stored on the site of the operation shall be set back at least 50 feet from the nearest property or street line.

H. Rehabilitation of site. Upon completion of the work permitted, the site shall be rehabilitated in accordance with the following standards:

- (1) The final grade shall be finished at a slope no steeper than one foot vertically for each two feet horizontally for any material other than rock, except where supported by a retaining wall or foundation. Finished excavated rock surface to fast rock shall have a slope no steeper than six feet vertically for each one foot horizontally.

- (2) A minimum of four inches of topsoil shall be replaced over all ground surfaces exposed by any operation contemplated herein, except rock, roads, driveways, parking places, garden spaces and surfaces excavated below high water marks or lakes or ponds or streams, and then shall be seeded and planted as specified by the Planning Board to prevent erosion.
- (3) Upon completion of all rehabilitation work, the applicant shall so notify the Planning Board. The Planning Board shall make, or cause to be made, a field inspection of the site to determine if all work has been completed in accordance with the terms of the permit and the approved plans. The Planning Board shall make a report to the Town Board upon the completion of its investigation, describing the degree to which the operation is in conformance with the terms of the permit and plans, together with its recommendation as to the release of the performance bond posted.

Tamara Harrison

Subject: FW: KCAC Comments re revisions to Town Code 63
Attachments: Carmel excavation code differences.docx

----- Forwarded message -----

From:
Date: Feb 14, 2021 6:55 PM
Subject: Fwd: KCAC Comments re revisions to Town Code 63
To: Christopher Ruthven <cruthven@townofkentny.gov>
Cc:

TOWN OF KENT NOTICE

THIS EMAIL IS FROM AN EXTERNAL SENDER!

DO NOT click links, DO NOT open attachments, DO NOT forward if you were not expecting this email or if it seems suspicious in any way! REMEMBER: NEVER provide your user ID or password to anyone for any reason!

Hi Chris,
I saw you commented on Bill's email about dust control and want to be sure you actually saw this original message with attachments. Also, I just heard that Put Valley is starting on Community Choice Aggregation. They just signed their local law/pledge. What is Kent's status on this? How can we get it moving?
Regards,
Anne

-----Original Message-----

From:
To: cruthven@townofkentny.gov <cruthven@townofkentny.gov>
Cc: Sent: Fri, Feb 12, 2021 10:13 pm
Subject: KCAC Comments re revisions to Town Code 63

Dear Chris,

The KCAC has a number of comments on the proposed revisions to TOK Article 63 Soil Removal. Due to the complexity of the issues involved, we recommend that the current moratorium on Soil Removal be extended to allow time to work out the details of the proposed code revisions. Here are our comments:

1. The term "soil" does not include rock. We suggest that the revised ordinance be titled "Soil Removal, Excavation, and Mining."

2. Although many municipalities have the Town Board as the reviewer for excavation permits, we urge the Town Board to adopt the model in the Carmel Town code, whereby the Planning Board makes the recommendation to the building inspector to issue the permit. There are several reasons why this model would be beneficial:

Efficiency: The planning board will already be familiar with the project for which the permit is being sought. Planning board members have training and readily available consultants and can evaluate the application as part of their overall review. Perhaps the requirements for information needed for the application could even be integrated with the overall application process for the building permit. We would not want this process to be a deterrent to potential applicants.

Expertise and Timeliness of Review: If the Town Board is the reviewer, time will be lost in seeking consultation from the planning board and/or consultants/experts. Moreover, the Town Board could opt to proceed without proper consultation, which could lead to a decision based on inadequate expertise and possibly bias for or against a particular project.

Communication: If the permit process is NOT integrated into Planning, how will the applicant know that a separate application must be submitted to the Town Board, and how will the Town Board know what projects are pending in order to monitor and ensure that the proper permits have been sought?

3. The proposed revised code lacks detail in a number of areas, including the application procedure/required information, requirements for conduct of the operation, and requirements for the rehabilitation of the site. In some instances, the Kent code leaves requirements to the discretion of the town board rather than having specific criteria for, for example, when a perimeter fence is required for safety during construction, or the permitted hours of operation.

To clarify these points, you will find attached to this email the Carmel code and a file indicating many of the differences between the Carmel code and the proposed Kent code.

Please contact KCAC chair, Bill Volckmann if you have questions or would like to discuss this further

Regards,
Anne

§ 156-43 Landfills, grading and excavation vs soil removal.

The Kent code should include the word "mining. We recommend that it be titled "Soil Removal, Excavation, and Mining."

Red = items not in the proposed Kent code

Red italic = comments

Blue = language being added to the Kent code

A.

General regulations. No excavation, regrading, filling, removal, stripping or disturbance of topsoil, earth, sand, gravel, rock or other substance from the ground, subsequently herein referred to as an "operation" or "operations," shall be commenced or carried on in the Town of Carmel unless, except as otherwise provided herein, a permit therefor has been duly issued in accordance with the procedure set forth elsewhere in this section.

I think defining the term operation and using it throughout is a good idea. Some sections of the Kent code are ambiguous

(1)

No operation authorized under this subsection shall be permitted on Sunday or before 8:00 a.m. or after 5:00 p.m. on other days. *(the Kent code allows the Town Board to set the permitted hours rather than having uniform standard).*

(2)

Being added to kent doc:

No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.

(3)

Not being added. I assume we have a separate code re landfills?

All landfill shall be clean soil, rocks or sand and shall be nonburnable and shall contain no garbage, refuse, waste or material deemed to be deleterious according to the standards of the applicable health codes.

B.

Cases where a building permit, an approved site plan or an approved subdivision construction plan is deemed a permit under this subsection.

(1)

A building permit for a building and/or its accessory structures shall be deemed to be a permit for such excavation and/or landfill necessary for the construction of that building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed two times the volume of the cellar and foundation of the dwelling *(Is this term general enough to cover commercial/industrial structures?)* and/or accessory structures for which the building permit was issued. The Building Inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.

(2)

In those cases where the Planning Board has approved, with or without conditions, the construction plans for proposed streets and drainage facilities in new subdivisions and site plans, the approved construction plans shall be deemed to be a duly issued permit for such operation within the rights-of-way and slope rights of the proposed streets and areas reserved for drainage facilities as may be necessary for their establishments, provided that if there is to be removal of excavated material, said removal shall be disclosed as an integral part of the approved plan and duly endorsed thereon. All operations outside such street rights-of-way and slope rights and drainage facilities shall be subject to the permit and approval requirements of this subsection.

(3)

Not being added- and probably should be – so that even small operations that do not require a separate permit are done correctly.

All excavation performed without the necessity of a permit shall nonetheless conform to the general regulations contained in Subsection A(1) and (3) of this section.

C.

Exception. Municipal and other public operations. The provisions of this subsection shall not apply to operations of or conducted by the Town of Carmel, County of Putnam or State of New York or any department or agency thereof.

D. Application procedure. Application for a permit under this subsection shall be made to the Planning Board, in writing, with 10 copies, and shall contain the following information:

(1)

The full name and address of the owner or owners of property.

(2)

The street address, if any, and Tax Map designation of the property.

(3)

A statement as to authority from the owner, or any person other than owner if such person is making the application, with consent of owner endorsed thereon.

(4)

A statement of proposed work and purpose thereof.

(5)

Accompanying said application and as a part thereof, complete plans and estimates for the proposed site improvements shall be submitted for approval. The plans shall be certified by an engineer or architect, licensed in the State of New York, and shall be drawn to a scale of not less than one inch equals 50 feet and shall show the following:

Kent code is similar -

(a)

The location of that portion proposed to be disturbed and its relation to neighboring properties, together with buildings, roads and natural watercourses, if any, within 300 feet of the boundaries of said portion of said premises herein referred to shall be shown. An inset map at a reduced scale may be used, if necessary.

(b)

The portion of the property that is to be disturbed.

(c)

The estimated maximum quantity to be excavated and/or removed and the estimated part thereof that will be used for regrading or filling, computed from cross sections of a proposed excavation or disturbed area.

(d)

The location of any well and the depth thereof, and the location of natural watercourses, if any, located within 300 feet of the proposed disturbed area.

(e)

The location of any sewage disposal system, any part of which is within 300 feet of the proposed disturbed area.

(f)

Existing topography of the area proposed to be disturbed at a contour interval of not more than two feet. Contours shall be shown for a distance of 100 feet beyond the area to be disturbed.

(g)

The proposed final contours at a contour interval of two feet.

(h)

The location and present status of any previous operations of the type contemplated by this subsection on the property within the preceding five years.

(i)

The details of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof.

(j)

If a proposed excavation is for the purpose of making a lake or pond, the details of the proposed construction of the dam or other structure or embankment intended to impound the water, together with the details and location of proposed discharge of a valved outlet for drainage purposes. Upon the filing of an application hereunder, the applicant shall pay a filing fee established by resolution of the Town Board which shall be filed in the office of the Town Clerk.

[Amended 9-14-1988 by L.L. No. 1-1988]

E.

Review procedure.

(1)

Upon receipt of an application and plans, the Planning Board shall review said application and plans in accordance with the following standards and requirements and other requirements of all other applicable local, state and federal regulations. Within 45 days after the receipt of a complete application, the Planning Board shall hold a public hearing on said application. Within 45 days after the hearing, the Planning Board shall make its determination.

(2)

The Planning Board, in making its determination, shall report whether or not the proposed operation meets the following criteria:

(a)

That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to it are such that, upon completion

of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.

(b)

That the proposed operation will not be in conflict with any proposal in a Town Development Plan or with any requirement of this chapter.

(c)

That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located.

(d)

That the proposed operation will not disturb any land designated as wetlands by the Town of Carmel or the State of New York.

F.

Applications are reviewed by Planning Board rather than Town Board.

Advantages:

Saves effort because planning board members will already be familiar with the project

Make the process faster: town board members don't have to review the project and then go back to planning board/consultants for more information

Improves communication: If this remains the purview of the town board, is there a process for the planning board to ensure that the applicant seeks a permit from the town board? The town board will not know what projects are pending with the planning board and might not become aware of an operation that lacks a permit until work has started and operations have become a problem.

Permit. In acting on the application and in granting or denying a permit, the Building Inspector shall be directed by the report and recommendations of the Planning Board. Any permit to be issued shall be issued in accordance with the terms of this subsection, subject to any restrictions, safeguards or special conditions considered by the Planning Board to be appropriate for the proposed operation.

The town code has something similar to this, but more detailed:

However, no permit shall be issued until the applicant shall have posted a performance bond with the Town of Carmel ensuring conformance with the approved plans and all applicable regulations, restrictions and special conditions. Such performance bond shall become effective only if and when the Town Attorney shall have approved the same as to amount, form, surety and manner of execution. The Building Inspector, when issuing permits, shall charge and collect a fee therefor, in addition to the filing fee previously provided for herein. Said charge shall be established annually by the Town Board and shall be on file in the office of the Town Clerk.

(2)

Permits issued under this subsection shall expire within 12 months of the date of approval. A permit may be extended by the Planning Board for one additional period of 12 months. In making a determination on extension, the Board shall make a complete review of all plans and make an examination of all work accomplished.

G.

Conduct of work. The work permitted shall be performed in accordance with the following conditions and requirements:

(1)

Regrading adjacent to property lines shall be so designed that the work will not endanger abutting property by reason of erosion, landslides or increased runoff. The Planning Board may recommend, as a condition of permit approval, such limits to the work and such supplementary drainage structures or other safeguards as it may deem to be necessary to assure such protection to abutting lands.

(2)

The proposed operation shall be so designed that the work will not cause soil erosion, flooding or increased stormwater runoff nor adversely affect wetlands within the Town of Carmel.

(3)

Kent code does not stipulate these safety aspects. Is it safe/legal to apply oil to the driveways? I would suggest not adopting that part of this provision.

There shall be a maximum of two truck access drives to the site of the operation, which shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such drives shall be kept either wet or oiled or shall be treated with chemical dust deterrents or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such access drives shall be clearly marked with signs which shall be posted approximately 200 feet on both sides of such access drives or other traveled areas. Such signs shall read "Caution, Trucks Entering" and shall be of size, type, coloring, lettering and format used by the Highway Department of the Town.

(4)

All streets and highways leading to the operation shall be kept clean of all dirt, rocks and other material, and all storm drainage systems in the area of the operation shall be kept clean and in good operating condition. Violation of this condition shall be grounds for revocation of the permit by the Building Inspector.

(5)

Kent code has a less specific clause that the town board may require a fence. Overall, Kent code is less specific, leaving more to the discretion of the town board.

At all times subsequent to the issuance of a permit and before completion of the final grading, as herein provided, any excavation having a slope steeper than one foot vertically for each one foot horizontally and having a depth greater than three feet or involving standing water of a depth greater than six inches shall be entirely enclosed by wooden or wire-mesh fence not less than four feet in height, measured from ground level, with a gate of the same height at each entrance thereto. If such fencing and gates are of wooden construction, each fencing board shall be separated by not more than seven inches and, if constructed of wire-mesh fencing, the mesh thereof shall not be greater than six inches by six inches. No such fence shall be so located as to obstruct visibility at the access drives. Gates shall be securely locked at all times when the project is not in operation.

(6)

Storage piles of materials, including waste material, shall at no time be located nearer than 50 feet to a property or street line or have a grade steeper than one foot vertically for each two feet horizontally.

(7)

All trucks and equipment stored on the site of the operation shall be set back at least 50 feet from the nearest property or street line.

H.

Rehabilitation of site. Upon completion of the work permitted, the site shall be rehabilitated in accordance with the following standards:

(1)

The final grade shall be finished at a slope no steeper than one foot vertically for each two feet horizontally for any material other than rock, except where supported by a retaining wall or foundation. Finished excavated rock surface to fast rock shall have a slope no steeper than six feet vertically for each one foot horizontally.

(2)

Kent code does not specify a minimum, instead requires that the top 12 inches be saved and respread. A minimum of four inches of topsoil shall be replaced over all ground surfaces exposed by any operation contemplated herein, except rock, roads, driveways, parking places, garden spaces and surfaces excavated below high water marks or lakes or ponds or streams, and then shall be seeded and planted as specified by the Planning Board to prevent erosion.

(3)

Upon completion of all rehabilitation work, the applicant shall so notify the Planning Board. The Planning Board shall make, or cause to be made, a field inspection of the site to determine if all work has been completed in accordance with the terms of the permit and the approved plans. The Planning Board shall make a report to the Town Board upon the completion of its investigation, describing the degree to which the operation is in conformance with the terms of the permit and plans, together with its recommendation as to the release of the performance bond posted.

This code has a clearer overall sequence of the application process, the review, the operations and then restoration. The Kent code seems less coherent in this regard.

Tamara Harrison

From: Maureen Fleming
Sent: Wednesday, March 03, 2021 10:52 AM
To: Tamara Harrison
Subject: FW: Soil Removal Legislation

Please put this on the website, along with the Planning Board and CAC comments. Thanks.

Maureen

From: Gordon Moccio >
Sent: Saturday, February 6, 2021 10:12 AM
To: Maureen Fleming <mfleming@townofkentny.gov>
Cc: Ron Hansen ZBA ; Brett Harrison ZBA ; Joe Greico ; Travis Hunt ; Planning Kent <planningkent@townofkentny.gov>
Subject: Re: Soil Removal Legislation

TOWN OF KENT NOTICE

THIS EMAIL IS FROM AN EXTERNAL SENDER!

DO NOT click links, DO NOT open attachments, DO NOT forward if you were not expecting this email or if it seems suspicious in any way! REMEMBER: NEVER provide your user ID or password to anyone for any reason!

Dear Supervisor Fleming,

The Zoning Board of Appeals discussed the proposed changes to "soil removal" as stipulated at our recent workshop. Although there seemed to be no objections or issues raised regarding the changes as stipulated, there was some concern expressed over the language of 77-40 (e) as being too vague and prone to loose interpretation. It is my position that section 77-40 (e) was preexisting, and not part of what I believe we were asked to review. As such, I have encouraged board members to share any other concerns or objections individually to your office.

Sincerely,

Gordon A. Moccio, Chairman
Town of Kent Zoning Board of Appeals

Tamara Harrison

From: Maureen Fleming
Sent: Wednesday, March 03, 2021 12:49 PM
To: Tamara Harrison
Subject: FW: Soil Removal Legislation

From: Rons Email <[redacted]@townofkentny.gov>
Sent: Saturday, January 30, 2021 10:15 AM
To: Maureen Fleming <m Fleming@townofkentny.gov>
Subject: Re: Soil Removal Legislation

TOWN OF KENT NOTICE

THIS EMAIL IS FROM AN EXTERNAL SENDER!

DO NOT click links, DO NOT open attachments, DO NOT forward if you were not expecting this email or if it seems suspicious in any way! REMEMBER: NEVER provide your user ID or password to anyone for any reason!

Maureen

It looks good to me. I appreciate the clear stated limits and the town/agency exclusions. This should definitely address our concern going forward.

Thanks for your hard work in this issue.

Ron

Ronald J. Hansen Sr

On Jan 30, 2021, at 10:01 AM, Maureen Fleming <m Fleming@townofkentny.gov> wrote:

Below please find a link to code changes related to soil removal. The point of this is to prevent another Kent Materials situation where the owner of a property comes in to strip a hill of minerals and materials under the auspices of building a major project. I would appreciate your getting back to me with your comments by February 12, 2021. I have shared this with the Planning Board, their attorney and their consultants as well. Thank you in advance for your consideration of this legislation.

[https://www.townofkentny.gov/sites/g/files/vyhlif4576/f/news/soil removal 1 0.pdf](https://www.townofkentny.gov/sites/g/files/vyhlif4576/f/news/soil%20removal%2010.pdf)

**Town of Kent Police Reform and Reinvention
Collaborative Plan
March 1, 2021**

**Maureen Fleming, Town Supervisor
Kevin Owens, Chief of Police**



Contents

- A. DEPARTMENT PROFILE 2
- B. MUNICIPALITY DEMOGRAPHICS..... 3
- C. AGENCY DEMOGRAPHICS 4
- I. REFORM & REINVENTION COLLABORATION PROCESS 4
 - A. TOWN REFORM PANEL 4
 - B. RELATIONSHIP TO COUNTY POLICE REFORM PROCESS..... 5
 - C. PROCESS IMPLEMENTATION AND TIMELINE..... 5
- II. PUBLIC PARTICIPATION & FEEDBACK CHANNELS..... 5
 - A. SURVEYS 5
 - B. COMMUNITY FEEDBACK SESSIONS..... 5
- III. TOWN OF KENT POLICE DEPARTMENT REFORM PLAN 6
 - A. NEW YORK STATE MANDATES 6
 - B. POLICE DEPARTMENT POLICY REVISIONS..... 9
 - C. RECOMMENDATIONS AND ACTION PLANS 11
- IV. APPENDIX 16
 - A. GOVERNOR CUOMO’S EXECUTIVE ORDER 203 16
 - B. SUMMARY OF MEETINGS 18
 - C. POLICE PERSONNEL SURVEY 22
 - D. COMMUNITY SURVEY 23
 - E. POLICIES AS AMENDED 24

Executive Order No. 203
New York State Police Reform and Reinvention Collaborative Plan
March 1, 2021

INTRODUCTION

On June 12, 2020, New York State Governor Andrew M. Cuomo issued an executive order directing municipalities that employ police officers to actively engage stakeholders in the local community and develop locally approved plans for the strategies, policies and procedures of local police agencies. In July of 2020, in accordance with Executive Order 203, The Town of Kent in conjunction with the Town of Kent Police Department began a collaborative effort to engage with local stakeholders and move through the process to enact a local plan for police reform and reinvention.

The following plan/report are the results of those efforts to engage and work with local stakeholders who comprised our Town of Kent Police Panel for reform and reinvention.

A. DEPARTMENT PROFILE

Municipality: Town of Kent
Law Enforcement Agency: Town of Kent Police Department
Town of Kent Executive Officer: Maureen Fleming, Town Supervisor
Town of Kent Chief of Police: Kevin Owens

Mission Statement

It is the mission of the Town of Kent Police Department to work in partnership with the citizens of the Town of Kent toward providing a safe environment and enhancing the quality of life consistent with the values of our community. To accomplish our mission, we will adhere to values of professionalism, integrity, responsiveness, sensitivity, respect and openness.

- **PROFESSIONALISM:** We are committed to providing professional law enforcement services by highly trained personnel accountable to our community.
- **INTEGRITY:** We are committed to demonstrating and maintaining the highest ethical standards both personally and organizationally.
- **RESPONSIVENESS:** We are committed to providing competent and effective delivery of service in response to community concerns.
- **SENSITIVITY:** We are committed to providing services in a manner sensitive to our diverse community in a bias-free manner.

KENT PD Reform Plan

- **RESPECT:** We are committed to providing courteous police service with respect for the rights and dignity of all the people we serve.
- **OPENNESS:** We are committed to a shared and open relationship of involvement with all segments of our community.

Oath of Honor

On my honor, I will never betray my profession, my integrity, character, or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the laws of my country, my community and the policies of the agency I serve.

B. MUNICIPALITY DEMOGRAPHICS

The Town of Kent is a small, rural town in Putnam County consisting of approximately 43 square miles with a population of approximately 13,162 people. The 2019 US Census Bureau data indicates that the Town of Kent population consists of the following:

- White alone = 85.4%
- Black or African American alone = 4.6%
- American Indian & Alaska Native alone = 0.2%
- Asian alone = 1.6%
- Native Hawaiian & Other Pacific Islander = 0%
- Two or More Races = 2.0%
- Hispanic or Latino = 17.8%
- White alone, not Hispanic or Latino = 75.2%

The Town of Kent borders Dutchess County to the north, the Town of Putnam Valley to the west, the Town of Patterson to the east and the Town of Carmel to the south. Kent students attend the Carmel Central School District with two of the elementary schools being located within Kent. Major roadways include a small portion of the Taconic State Parkway and Interstate 84 as well as State Routes 52 and 301. The Metro-North Harlem Valley line serves rail commuters just east of the Town as well. The Town of Kent includes many bodies of water including Lake Carmel, Palmer Lake, White Pond, Sagamore Lake, Kentwood Lake, South Lake, Seven Hills Lake, Lake Ninham, Pine Pond, Canopus Lake, Lake Tibet, Waywayonda Lake, China Pond, Barrett Pond and the West Branch and Boyds Reservoirs.

The Town of Kent is governed by a Town Supervisor and Town Board. The Town Supervisor is Maureen Fleming. Town Board members include Deputy Town Supervisor William Huestis, Paul Denbaum, Jaime McGlasson and Christopher Ruthven.

C. AGENCY DEMOGRAPHICS

The Town of Kent Police Department (hereinafter “Kent PD”) is a full-service police agency with a current staffing level of 23 full time employees, 18 of which are sworn police officers and the remaining five are civilian Dispatchers. Kent PD has one Chief, one Lieutenant, four Sergeants, one Detective Sergeant, one Detective and ten Patrol Officers. The Kent PD provides service to its residents, guests and visitors 24 hours a day, seven days a week, 365 days of the year, through its patrol, administrative and detective divisions. Kent PD also maintains excellent collaborative working relationships with neighboring police agencies and departments that operate in support roles in the town including the Putnam County Sheriff’s Office, the New York State Police, the New York City Department of Environmental Protection Police Department, the New York State Department of Environmental Conservation Police Department and the New York State Park Police. Kent PD also collaborates with neighboring county agencies in Dutchess and Westchester in order to achieve our training goals.

I. REFORM & REINVENTION COLLABORATION PROCESS

A. TOWN REFORM PANEL

In accordance with Governor Andrew Cuomo’s Executive Order 203, the Town of Kent PD in conjunction with the Town Supervisor solicited members of the public to participate in a Police Reform Panel. The Town advertised for this in the local free newspaper, on the Town website (townofkentny.gov), on numerous Facebook pages affiliated with the Town such as Town of Kent and Maureen Fleming, Kent Town Supervisor which posts were then shared on the Facebook pages of groups of residents within the Town, on the Town’s public access television channel and through emails to residents. Nine volunteers stepped forward, although ultimately only seven of the nine continued to be active throughout the process. Regular weekly meetings of the panel took place via Zoom beginning on November 2, 2020 and continuing through the end of February 2021 to develop the reform plans contained in this document.

Membership

Town of Kent Supervisor, Maureen Fleming

Town of Kent Police Department Representatives

- Chief Kevin Owens
- Lieutenant Tara Flynn

Town Residents (Seven)

B. RELATIONSHIP TO COUNTY POLICE REFORM PROCESS

Chief Owens, Lieutenant Flynn and Supervisor Fleming attended the County Police Reform Panel meetings from August 13, 2020 through January 12, 2021. Chief Owens and Lieutenant Flynn also attended meetings with stakeholder groups identified by the County process.

C. PROCESS IMPLEMENTATION AND TIMELINE

The Town solicited for Panel members in September 2020 with a deadline of October 9, 2020 to receive applications.

Weekly meetings were convened beginning November 2, 2021 for a total of 20 meetings by March 1, 2021. On March 1, 2021 the panel finalized its plan for submission to the Town Board and the public.

II. PUBLIC PARTICIPATION & FEEDBACK CHANNELS

A. SURVEYS

General Public Survey (see Appendix)

This survey had 13 questions: five demographic data questions, three multiple choice questions, three yes/no questions and two fill-in-the-blanks. Notifications about the survey were posted on Facebook, the Town of Kent website and the Town's public access television channel and sent via email to more than 1,200 Town residents. A total of 263 responses were received. The Town population, excluding minors, is 10,661 as of the last census numbers in 2019. Thus, responses were received from 2.5% of the adult population of the Town.

Police Officer Survey (See Appendix)

A totally voluntary survey was circulated among members of the Police Department. This Survey had 11 questions: three open-ended, six multiple choice and two yes/no. Ten of the 18 members responded – equaling 55.6% of the Department.

B. COMMUNITY FEEDBACK SESSION

The plan was formally submitted on March 2, 2021 at a Town Board meeting. A public meeting to discuss the plan was held on Tuesday, March 9, 2021 via Zoom. This meeting was publicized at the March 2, 2021 meeting, in the local free newspaper, on the Town website, in an email to residents and on numerous Facebook pages affiliated with the Town such as Town of Kent and Maureen Fleming, Kent Town Supervisor which posts were then shared on the Facebook pages of groups of residents within the Town. In attendance at the public meeting were the panel (Supervisor Fleming, Chief Owens, Lt. Flynn and the seven town resident members), the four

KENT PD Reform Plan

town council members, a Town of Kent police officer and eight members of the public. After this meeting, the panel met on March 12, 2021 to finalize the plan based on the feedback that was received.

III. TOWN OF KENT POLICE DEPARTMENT REFORM PLAN

The reform plan, in accordance with public feedback and the executive order requirements, consists of three sections. Section A includes NYS Mandated Changes. Section B summarizes Police Department policy revisions developed by the panel and adopted by the Department. Section C includes the panel's recommendations and action plans in five categories: Equality & Social Justice, Transparency & Accountability, Community Relations, Operational Policies and Procedures and Training.

A. NEW YORK STATE MANDATES

The reform items in this section are derived directly from the Executive Order No. 203

NY State Mandated Changes	Reform Item	Description	KENT PD Action	Timeline
NYS Mandate - 1	NYSM – 1. Civil Penalties for Filing False Reports on Member of a Protected Class	Establishes civil penalties for falsely Summoning a Police Officer when there is no reason to believe a crime, offense or threat has been committed involving a member of a protected class. <i>(Effective June 13, 2020)</i>	No action needed.	N/A
NYS Mandate - 2	NYSM – 2. Require Police Officers to Report the Discharge of Weapons	Requires a police officer or peace officer (whether on or off duty) who discharges his or her weapon under circumstances where a person could be struck by a bullet to verbally report the incident within six hours and file a written report within forty-eight hours. <i>(Effective September 13, 2020).</i>	Department policy already in place in (1999 or earlier). Officers must report over radio immediately and file report at end of shift.	Complete
NYS Mandate - 3	NYSM – 3. Require the Reporting of Police Acts or Omissions Resulting in a Person's Death to the Office of Special Investigation	Establishes an Office of Special Investigation within the Office of Attorney General which will have investigative authority and criminal jurisdiction for any incident involving the death of a person caused by an act or omission by a police officer or a peace officer employed as a correction officer or contracted by an education, public health, social service, parks or housing agency. Where an investigation concludes that the death or matters relating to the death or investigation of the death involved criminal conduct, the Office will be empowered to prosecute any such alleged offenses. <i>(Effective April 2021)</i>	Conduct in-service training of supervisors. Meet with the head Officer of the Office of Special Investigation.	Q1 - 2021 Complete

KENT PD Reform Plan

NY State Mandated Changes	Reform Item	Description	KENT PD Action.	Status
NYS Mandate - 4	NYSM – 4. Ban Choke Holds	The Eric Garner Anti Choke Hold Act creates the crime of aggravated strangulation (making it a Class C felony) and establishes criminal penalties for a police officer or peace officer who uses a chokehold that causes serious physical injury or death. (Effective June 12, 2020)	Department policy already in place in (1999 or earlier).	Complete
NYS Mandate - 5	NYSM – 5. Require Medical Response for Arrestees	Affirms an individual's right to medical and mental health attention while under arrest or otherwise in custody of a police officer or peace officer. Failure to provide reasonable and good faith medical assistance could result in a cause of action against the officer, representative and/or entity. (June 15, 2020)	Department policy already in place in (1999 or earlier).	Complete
NYS Mandate - 6	NYSM – 6. Require Policing Statistics to be Reported to the Division of Criminal Justice Services	Requires courts to compile and publish data concerning arrests and court proceedings involving low-level offenses such as violations and traffic offenses. Such report will include aggregate and anonymized demographic information such as race, ethnicity and sex. This bill requires police departments to submit annual reports on arrest-related deaths to the Department of Criminal Justice Services, as well as the Governor and the State Legislature. (Effective December 12, 2020)	All use of force incidents including those that lead to deaths are reported to the state.	Complete
NYS Mandate - 7	NYSM – 7. Recording of Law Enforcement Activity	Provides that a person not under arrest or in the custody of a law enforcement official has the right to record police activity and to maintain custody and control of that recording and of any property or instruments used by that person to record such activities. A person in custody or under arrest does not, by that status alone, forfeit such right to record. (Effective July 13, 2020)	Incorporated into Department Policies in 2020. Include in in-service training.	Complete Q1-2 - 2021

KENT PD Reform Plan

NY State Mandated Changes	Reform Item	Description	KENT PD Action	Status
NYS Mandate - 8	NYSM – 8. Provide the Public Access to Personnel Records of Deputies and Correctional Officers	Repeal of Civil Rights Law 50-a, which had made all personnel records used to evaluate the performance toward continued employment or promotion of police officers, firefighters, paramedics, correction officers or peace officers confidential and not subject to inspection or review without the individual's express written consent or a court order. This legislation also amends the New York State Freedom of Information Law (FOIL), subjecting any record created in furtherance of a law enforcement disciplinary proceeding to disclosure under FOIL. The new FOIL provisions require specific sensitive personal information, including medical history, to be redacted from such records prior to being disclosed. (Effective June 13, 2020)	Department procedure already in place. Town Clerk forwards FOIL requests to the department, which complies with the request.	Complete

KENT PD Reform Plan

B. POLICE DEPARTMENT POLICY REVISIONS

The list below summarizes policy revisions recommended by the Town Police Reform Panel and adopted by the Town of Kent Police Department.

LAW ENFORCEMENT CODE OF ETHICS, MISSION STATEMENT AND OATH OF HONOR

Minor edits to wording

POLICY 300 – USE OF FORCE

- Made updates to policy that reflect changes to NYS law
- 300.1 – added additional language to better describe objective reasonableness standard for the benefit of members of the public who will read the policy
- 300.1.1 – Definitions – added the definition of “Objectively Reasonable”
- 300.6 – added language “medical considerations to include not only physical distress or injury but also mental health issues or mental illness distress”
- This policy will be uploaded to the Town and Department websites for the public to read

POLICY 320 – STANDARDS OF CONDUCT

- 320.2 – added sentence to the beginning of the section “It is the policy of the Kent Police Department that officers shall conduct themselves both on and off duty in a manner that reflects high ethical standards consistent with the values and mission established by this agency and the expectations of the community it serves.”
- 320.4 – added “all current” policies to first sentence of second paragraph.
- 320.5.3 – changed the order of the sentences in the second paragraph.
- 320.5.4 – in (a) took out the word “unwelcome” and in (c) took out the words “as a result of an investigation.”
- 320.5.8 – in (h) added the wording “, or while wearing department issued uniforms or clothing that identifies a member as an officer on duty.”
- 320.5.9 – added additional sub section (r) See Department Use of Social Media Policy (322) and Speech, Expression and Social Networking Policy (1030) for further guidance.”

POLICY 322 – DEPARTMENT USE OF SOCIAL MEDIA

- 322.4 – in (g) added “and public relations”.
- 322.5 – modified opening sentence to include language originally in a subsection “Any content that has not been properly authorized by this policy or a supervisor is prohibited.” Also added subsection (h) “Any content that endorses, supports, opposes or contradicts any political campaign or initiative.”
- 322.6 – modified the training section to be more tailored to Kent Police specifically.

POLICY 401 – BIAS-FREE POLICING

- Changed title of policy from “Bias-based Policing” to “Bias-free Policing”.

KENT PD Reform Plan

- 401.1 – changed first sentence to read “This policy provides guidance to department members that affirms the Kent Police Department’s commitment to fair and bias-free treatment of all people and to clarify the circumstances in which agency personnel may consider specified characteristics when carrying out duties.”
- 401.1.1 – changed the “Bias-based policing” definition to the one listed in the International Association of Chiefs of Police model policy. Also added the following definitions to the section: “Fair and Bias-free Treatment”, “Police Services” and “Specified Characteristics”.
- 401.3 – added more inclusive and descriptive language to the first paragraph and changed the first part of the second paragraph based on language found in the IACP model policy. Also added a third paragraph which reads “Restrictions on the use of specified characteristics do not apply to law enforcement activities or police services designed to strengthen the agency’s relationship with its diverse communities.”
- 401.5 – took out existing subsection (c) and added a new (c) which reads “Supervisors shall respond to violations of this policy with training, counseling, discipline, or other remedial intervention as appropriate to the violation.” Also added subsection (d) which reads “Supervisors shall ensure that those who report instances of biased policing are not subject to retaliation.”
- 401.6 – in first sentence replaced “objective” with “bias-free.” Also added sentence “All agency personnel will receive basic and periodic in-service training and, where deemed necessary, remedial training on subjects related to fair and bias-free policing, to include legal aspects and the psychology of bias.”

POLICY 1010 - PERSONNEL COMPLAINTS

- Replaced existing “Personnel Complaint Form” with a “Quality of Service Evaluation Form” which enables the public to file either a personnel complaint OR commendation. All language in the policy which referenced a Personnel Complaint Form was replaced with the title of the new form.
- Will be placing this policy as well as the Quality of Service Evaluation Form on the Town and Department websites and have the forms available in the PD lobby.
- Will make the online version of the Quality of Service Evaluation Form in a fillable PDF format.
- Alongside the policy and form mentioned above, we will also post on the websites links to other agencies that the public can contact for more serious complaints.

POLICY 1030 – SPEECH, EXPRESSION AND SOCIAL NETWORKING

- 1030.1 – added the word “public” to all forms of communication in the second paragraph
- 1030.3 – added more bullet points
- 1030.4.1 – at the end of the section added “(See the Standards of Conduct Policy Section 320.5.8 (g) for more information on improper political activity.)”

C. RECOMMENDATIONS AND ACTION PLANS

Recommendations in this section are based on panel discussions, surveys and community feedback sessions.

Category	Reform Item	Description	KENT PD Actions	Completion Timeline
Equality & Social Justice	ESJ-1. Diversify & Increase Candidate Recruitment Pools	Take proactive steps to increase the diversity of the candidate pools of newly hired officers.	<p>Conduct outreach to community groups to increase interaction with youth and potential employees.</p> <p>Use social media to attract diverse candidates and raise awareness of available positions and Civil Service requirements</p> <p>Through the Drug Abuse Resistance and Education (DARE) program, encourage students to apply for the Police Explorer program.</p>	<p>When COVID circumstances permit</p> <p>Q4 - 2021</p> <p>When COVID circumstances permit</p>
Equality & Social Justice	ESJ-2. Expand Diversity and Implicit Bias Awareness Training	<p>Expand diversity awareness training to include marginalized populations as well as training to recognize and overcome implicit bias.</p> <p>Require Procedural Justice Training.</p>	<p>Implicit Bias Awareness:</p> <ul style="list-style-type: none"> Require annual training in Implicit Bias Awareness for all Kent PD officers, per policy. Have all officers complete an initial training in Implicit Bias Awareness. Have one officer earn certification as an Implicit Bias Awareness instructor. <p>Procedural Justice:</p> <ul style="list-style-type: none"> Require annual Procedural Justice Training for all Kent PD officers, per policy. Have all officers complete an initial training in Procedural Justice. Have one officer earn certification as a Procedural Justice Instructor. 	<p>Complete</p> <p>Complete</p> <p>Q1 - 2022</p> <p>Complete</p> <p>Complete</p> <p>Complete</p>

KENT PD Reform Plan

Category	Reform Item	Description	Reform Action	Completion Timeline
Transparency & Accountability	TA-1. Increase public awareness of existing Personnel Complaint Review Process	Inform community members of the mechanisms for initiating a personnel complaint via the Kent PD feedback form and/or the Town Supervisor/Town Board.	Highlight the revised feedback form on the Kent PD website and social media channels. Include information on the process for making a complaint directly to the Town Board.	Q3 - 2021
Transparency & Accountability	TA-2 Form an ongoing Police/Community Collaborative Panel	Form a Town panel that will meet with the Town Supervisor, the Chief of Police, the Lieutenant and a member of the PBA at least semi-annually to discuss policies and procedures and community relations efforts.	Resolution by Town Board, advertise for volunteers in local press and social media channels.	Q2 - 2021
Transparency & Accountability	TA-3 Body Cameras	Implement use of body cameras for all officers while on duty.	<p>Present results of Body Camera Pilot Program and cost estimates to Town Board.</p> <p>Purchase/lease additional body cameras.</p> <p>Modify policies to reflect best practices in body camera usage.</p>	<p>Q2 – 2021</p> <p>Q4 – 2021</p> <p>Q4 – 2021</p>

KENT PD Reform Plan

Category	Reform Item	Description	Reform Action	Completion Timeline
Community Relations	CR-1. Conduct Public Education on Policing Practices	Increase the transparency of policing methods and governance by educating the public on these practices.	Kent PD Community Relations Officer will post information and blogs on Kent PD website and social media channels.	2021 ongoing
Community Relations	CR-3. Strengthen Community Safety Training Programs	Increase the frequency of safety trainings for the community; develop additional programs and/or make existing programs available online where possible. These trainings help enhance their safety knowledge and support better relations.	<p>Inform the community about safety programs the Kent PD makes available to the community upon request e.g., Active Shooter, Internet Safety Scam Awareness, Car Seat Safety (Announce at Town Board meetings, post on website and social media).</p> <p>Offer one or more safety trainings online.</p> <p>Resume the DARE program.</p>	<p>Q3 - 2021</p> <p>Q1 - 2022</p> <p>When COVID circumstances permit</p>
Community Relations	CR-4. Establish & Promote Community Programs to Increase Law Enforcement Visibility in the Community	Develop and execute programs that bring law enforcement officers and citizens together in forums where they talk to one another, share thoughts and promote interactions which support the building of positive relationships.	<p>Resume community engagement programs such as "Coffee with a Cop" for department personnel to interact personally with citizens and/or to inform them about police operations and services.</p> <p>Kent PD Community Relations Officer will post films and blogs of community events on Kent PD website and social media channels.</p> <p>Develop additional community engagement programs, including online programming that can be offered during COVID.</p>	<p>When COVID circumstances permit</p> <p>When COVID circumstances permit</p> <p>Q2 - 2021</p>

KENT PD Reform Plan

Category	Reform Item	Description	Reform Action	Completion Timeline
Operational Policies & Procedures	OPR-1. Improve Selection & Promotion Methods by Requiring Candidates to Meet Additional Standards	Require candidates to meet additional criteria to help ensure a higher quality pool of candidates for new hires and transfers from other departments.	Enhance selection methods for new hires and transfers: <ul style="list-style-type: none"> Require a standardized comprehensive background investigation in accordance with LEAP standards. Require a psychological exam for transfers and new hires. 	Complete Q1 - 2022
Operational Policies & Procedures	OPR-2. Initiate Anonymous Quality Assurance Feedback Channel	Allow citizens & officers to submit feedback anonymously via feedback form on website.	Indicate on website that anonymous complaints may be made (via phone calls, the Attorney General's Office of Special Investigation, etc.) but if individuals submit complaints anonymously, they will not receive follow-up unless they contact the department at a later date.	Q3 - 2021
Operational Policies & Procedures	OPR-3. Improve Collaboration with Mental Health Agencies	Partner with Putnam County Mental Health to continue mental health training for officers.	Continue to keep lines of communication open with Putnam County for updated trainings.	Ongoing
Operational Policies & Procedures	OPR-4. Improve Support For Addressing Mental Health Challenges of Officers	Encourage/require use of existing mental health support programs.	Require that officers seek mental health services after certain kinds of incidents. Continue to encourage use by officers and their family members of the Town's Employee Assistance Program and First Line (peer-to-peer support network).	Q4 - 2021 Ongoing
Operational Policies & Procedures	OPR-5. RMS Community Alerts System	Allow community members to enter alerts in history section of Kent PD Incident reporting system (RMS) about individuals in the household who have special considerations or heightened needs (disabilities, mental health issues, etc.)	Train dispatchers to enter the information in the RMS system in a consistent manner. Develop web form and publicize to community via website.	Q4 - 2021 Q4 - 2021

KENT PD Reform Plan

Category	Reform Item	Description	Reform Action	Completion Timeline
Training	T-1. Expand De-Escalation Training	Continue to incorporate de-escalation in in-service training.	<p>Seek opportunities for personnel to obtain certification as a trainer for de-escalation techniques.</p> <p>Require participation in NYMIR (NY Municipal Insurance Reciprocal) online trainings relevant to de-escalation, communication and/or mental health challenges.</p> <p>See ESJ 3- above</p>	<p>Q4 - 2021</p> <p>Ongoing</p>

IV. APPENDIX

A. GOVERNOR CUOMO'S EXECUTIVE ORDER 203



No. 203

EXECUTIVE ORDER

NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE

WHEREAS, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

WHEREAS, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the Office of Governor; and

WHEREAS, beginning on May 25, 2020, following the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability; and

WHEREAS, there is a long and painful history in New York State of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America; and

WHEREAS, this recent history includes a number of incidents involving the police that have resulted in the deaths of unarmed civilians, predominantly black and African-American men, that have undermined the public's confidence and trust in our system of law enforcement and criminal justice, and such condition is ongoing and urgently needs to be rectified; and

WHEREAS, these deaths in New York State include those of Anthony Baez, Amadou Diallo, Ousmane Zango, Sean Bell, Ramarley Graham, Patrick Dorismond, Akai Gurley, and Eric Garner, amongst others, and, in other states, include Oscar Grant, Trayvon Martin, Michael Brown, Tamir Rice, Laquan McDonald, Walter Scott, Freddie Gray, Philando Castile, Antwon Rose Jr., Ahmaud Arbery, Breonna Taylor, and George Floyd, amongst others.

WHEREAS, these needless deaths have led me to sign into law the Say Their Name Agenda which reforms aspects of policing in New York State; and

WHEREAS, government has a responsibility to ensure that all of its citizens are treated equally, fairly, and justly before the law; and

WHEREAS, recent outpouring of protests and demonstrations which have been manifested in every area of the state have illustrated the depth and breadth of the concern; and

WHEREAS, black lives matter; and

WHEREAS, the foregoing compels me to conclude that urgent and immediate action is needed to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust; and

WHEREAS, the Division of the Budget is empowered to determine the appropriate use of funds in furtherance of the state laws and New York State Constitution; and

WHEREAS, in coordination with the resources of the Division of Criminal Justice Services, the Division of the Budget can increase the effectiveness of the criminal justice system by ensuring that the local police agencies within the state have been actively engaged with stakeholders in the local community and have locally-approved plans for the strategies, policies and procedures of local police agencies; and

KENT PD Reform Plan

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, in particular Article IV, section one, I do hereby order and direct as follows:

The director of the Division of the Budget, in consultation with the Division of Criminal Justice Services, shall promulgate guidance to be sent to all local governments directing that:

Each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law must perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.

The political subdivision, in coordination with its police agency, must consult with stakeholders, including but not limited to membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials, and create a plan to adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.

Such plan shall be offered for public comment to all citizens in the locality, and after consideration of such comments, shall be presented to the local legislative body in such political subdivision, which shall ratify or adopt such plan by local law or resolution, as appropriate, no later than April 1, 2021; and

Such local government shall transmit a certification to the Director of the Division of the Budget to affirm that such process has been complied with and such local law or resolution has been adopted; and

The Director of the Division of the Budget shall be authorized to condition receipt of future appropriated state or federal funds upon filing of such certification for which such local government would otherwise be eligible; and

The Director is authorized to seek the support and assistance of any state agency in order to effectuate these purposes.



BY THE GOVERNOR

A handwritten signature in black ink, appearing to be "Mr. C", followed by the text "Secretary to the Governor".

Secretary to the Governor

GIVEN under my hand and the Privy Seal of the
State in the City of Albany this
twelfth day of June in the year two
thousand twenty.

A handwritten signature in black ink, appearing to be "Andrew M. Cuomo".

KENT PD Reform Plan

B. SUMMARY OF MEETINGS

September 2020: Town of Kent Supervisor Maureen Fleming solicited applications from Kent residents to join the Kent Stakeholders Panel as part of Police Reform and Reinvention.

October 2020: Kent Panel was created and consisted of the following members: Maureen Fleming, Chief Kevin Owens, Lt Tara Flynn and 9 Town of Kent residents. Meetings were conducted weekly via Zoom due to Covid-19 restrictions. Over time, the number of resident panelists dropped from 9 to 7.

Meetings Summary:

10/23/20: Initial meeting, introductions, goals of the panel, schedule of future meetings. Initial general overview of Use of Force.

11/2/20: KPD Use of Force Policy Review. Discussion topics included: KPD Taser inventory & deployment, mental health as a public health crisis and the PD's desire for a county Mobile Crisis Unit, Officer mental health and the Town EAP program, the perception of ERT equipment such as the APC (armored personnel carrier) seen as a military "tank" and discussed its use. Panel decided on creating a survey to distribute to KPD officers to try and better understand how they feel and what they would like to see happen. (see appendix for survey results)

11/9/20: A Panel Member submitted possible survey questions which were discussed at length and edited, KPD Officer Survey created. Discussion topics included: different ideas for PD community outreach, possibility of creating a Mental Health/Mental Illness/Physical Disability Registry to pre-inform officers when responding to locations and tailoring response accordingly.

11/16/20: A Panel Member submitted additional Officer Survey questions in order to facilitate the hard conversations regarding implicit bias and systemic racism. She also recommended a type of program where officers meet with BIPOC community members in a more relaxed social situation as outreach and familiarity. Discussed the outline of the NYS Police Reform & Reinvention Collaborative Guide issued by Cuomo's office. Continued to work on draft of KPD Officer Survey.

11/23/20: KPD Officer Survey was finalized and created in SurveyMonkey.com, panelists will be taking it first to work out any edits that may need to happen before its distributed to officers. Review of KPD Personnel Complaints Policy and the Personnel Complaint Form.

11/30/20: KPD Policy Review: Bias-Based Policing, Anti-Retaliation, Duty to Intercede (part of Use of Force Policy). Changing Personnel Complaint Form to Quality of Service Evaluation Form where for the public to use for complaints or commendations. Discussion topics: Order of Protection procedures, the admins of KPD must create an atmosphere and culture where officers feel safe to report misconduct, Implicit Bias and Duty to Intercede training (KPD will be participating in Spring 2021), the need for grants to help pay for more training and other programs instituted as a result of this collaborative. Different ideas for KPD transparency, public ability to make complaints without fear of retaliation. Ideas for community outreach: online forum for public to get to know officers, virtual training like citizen academy classes,

KENT PD Reform Plan

school programs, volunteer groups like PAL (police athletic league) Kent Recreation “Live” programs online.

12/9/20: Chief discussed proposed Putnam County survey of the public by County Committee, Kent Panel decided to create a Kent Resident Community Survey of KPD only. Discussed ideas on how to distribute to the public, worked on draft of the survey using the County survey as a template. Discussion about the Black Lives Matter movement and the Thin Blue Line societal tensions and misconceptions.

12/14/20: A Panel Member sent out a link to the group for free cultural training <https://www.bestcolleges.com/blog/online-courses-racial-justice/> A Panel Member has chosen to quit the Kent Panel, rehashed last meetings discussion on Thin Blue Line. Finalized the Kent Community Survey with numerous corrections/revisions. KPD Officer Survey to be sent out today due 12/21. On 12/18/20, Supervisor Fleming made public notice (press release, website etc.) of Kent Community Survey due by 01/04/21.

12/21/20: Minor corrections to Kent Community Survey and discussion about deployment strategy. Discussion topics included: No-Knock Warrants, a Panel Member expressed interest in getting involved with Kent hired grant writer to assist with finding PD grants, KPD Officer Survey results. It is apparent from the results of the survey and the pushback by officers that the survey made them defensive. The Chief and LT will try to do a better job of explaining the Panel process and try to include them more in meetings so they understand better. Another thing that is apparent by the results is the lack of acknowledgement of inherent bias therefore it is absolutely necessary to have Implicit Bias training. Officers are in favor of mandatory mental health care after critical incidents and disturbing calls.

01/04/21: Kent Community Survey results, received 263 responses and most were positive about KPD and its officers. Discussion topics included: EAP and pre-hire psych exam, Panel suggested possibility of incorporating psych exam every few years throughout an officer's career; possibility of putting up pics of officers on PD website so that the public can see that we have females and persons of color on the force; a Panel Member sent a link to the Panel for a film about 2 Texas Officers who created a Mental Crisis Unit, suggested a community viewing; the PD needs to do more community outreach/education such as VLOG on meeting the officers, explaining training and acknowledging social issues; the Panel's need for guidance on constructing the final Reform Plan and how to submit it to the State.

01/11/21: Revised Quality of Service Evaluation Form to exclude gender options and other minor revisions, also discussed several revisions to KPD Standards of Conduct Policy.

01/19/21: Reviewed KPD Mission Statement & Oath of Honor as well as Code of Ethics with minor wording changes to each. Review of KPD Department Use of Social Media Policy as well as KPD Speech, Expression & Social Networking Policy. Discussed the need for KPD to utilize social media more for community outreach and education.

02/05/21: Officer Jason Knapp attended meeting and spoke about his role as Community Relations Officer/Vlogger and Procedural Justice Instructor. Discussion topics included:

KENT PD Reform Plan

Summary of Policy Review revisions, summary of meeting notes, Reform Plan format (actionable items, goals with dates), ideas for better community outreach, PD to plan community events rather than just participating in order to better tailor to the marginalized demographics of the community but invite everyone to attend, undocumented immigrants in Kent and that KPD doesn't have a reputation as deportation agents, mental health crisis uniformity of response across all county police departments, LGBTQIA+ community policies is there a need for specific policy or that Bias-Free Policing covers the topic, CAD/RMS issues and the hope that the coming upgrade will help solve issues, making the Quality of Service Evaluation Form available in Spanish, the fact that the Town website has the ability to translate its content into numerous other languages, minor word changing in KPD Speech, Expression & Social Networking Policy. The Chief and Supervisor Fleming discussed the shortcomings of the Putnam County Reform Committee and the contentious meeting that was held a few nights earlier, the sub-committees are angry and feel their input was not solicited or included in the County's Draft Reform Plan. County's public hearing was changed from 02/09/21 to 02/17/21. On Monday's meeting the Kent Panel will go over the final Reform Plan construction. Supervisor Fleming discussed the certification process and that the Board will opt to make the Plan a Town Resolution rather than a Town Law (the choice is theirs based on the guidance from the State), will make the process easier in order to meet the April 1st deadline.

02/08/21: A Panel Member invited three representatives from the People of Color Subcommittee of the Putnam County Police Review Panel to view our meeting. A representative discussed the issue between their group and the PCSO which led to a meeting between the People of Color Subcommittee of the Putnam County Police Review Panel and Putnam County law enforcement to not take place back on 12/22/20. A representative stated that they had wanted to have the meeting on their group's zoom channel so that they could present a production they had created and also have more than three members from their group in attendance. The Sheriff did not agree to this and so therefore members from each group did not attend the meeting on the respective zoom channels. Chief Owens and Lt Flynn were not aware of the details previously. The Kent Panel was provided with the information to view the production on either the Facebook page for Putnam for Black Lives (posted on 12/28/20) or on their YouTube channel. All panel members will view the production for discussion at next week's meeting and also agreed to meet with the People of Color Subcommittee of the Putnam County Police Review Panel again at a later date. Further discussion was held on how to create the Kent Plan with a Panel Member volunteering to write the plan with the assistance of Lt Flynn. All Panel Members agreed they preferred the Steuben County model, although the DeWitt model had a good introduction. The panel also discussed Hope Not Handcuffs which is a diversion program that KPD participates in. A Panel Member to look into setting up a community event with the town and the director of the film about the Texas police officers who created a Mobile Crisis unit in their department. All panel members agreed to an actionable item to be included in the plan is for this Panel to exist even after the mandated deadline in some fashion to continue to work community outreach, public education and PD policy review.

KENT PD Reform Plan

02/16/21, 02/22/21, 02/26/21 and 03/01/21: Panel Members met to discuss, edit and finalize the Town of Kent Police Reform and Reinvention Plan.

Putnam County Committee Meetings: Chief Owens, Lt Flynn and Supervisor Fleming attended most, if not all, of the meetings held by the County Legislature. Those meetings were held in person at the TOPS Building initially but moved to online due to Covid-19 restrictions.

08/13/20, 09/15/20, 09/29/20, 10/13/20, 10/27/20, 11/10/20, 11/24/20, 12/08/20, 12/22/20 and 01/12/21.

Additionally, Chief Owens and Lt Flynn also joined administrators from Putnam County Sheriff's Office and Carmel Police Department to meet with various Putnam Stakeholder Groups as follows:

09/29/20: Met with Putnam Defense Attorneys Joe Tock, Chris Maher, Chris York, Mary Jane Macrae and Pete Reynolds. They stated they are not seeing issues with police misconduct in areas of use of force or racial bias with their clients in Putnam County.

11/17/20: Members of Clergy from various religious institutions in Putnam County

12/01/20: Mahopac for Racial Justice

12/03/20: Sherry Grimes-Jenkins member of NAACP who is trying to get a Putnam Chapter started.

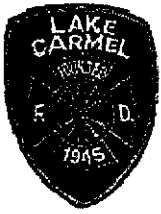
12/10/20: David Squirrel from Putnam Legal Aid-comments mirrored those of the defense attorneys as stated above.

12/15/20: Putnam Progressives

01/14/21: Putnam Pride

02/03/21: Chief Owens and Supervisor Fleming attended County BIPOC meeting via Zoom. 7-9:30pm

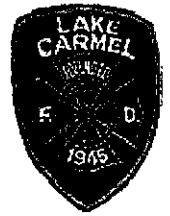
02/17/21: Public Hearing on the Draft County Police Reform Plan



Lake Carmel Fire Department

851 Route 52
Carmel, NY 10512

Phone: (845) 225-3730 – Fax: (845) 225-0460



3e

Chief

Justyn Lewis

1st Asst. Chief

Ken Luanzinger

2nd Asst. Chief

Donald Lowndes

Yolanda D Cappelli

Town of Kent

25 Sybil's Crossing

Kent Lakes, N Y 10512

March 1, 2021

Ms Cappelli:

President

Ryan Benson

Vice President

Ed. Schaeffler Jr.

We the undersigned certify that the enclosed list includes all members who have successfully qualified for the Service Awards Program for the year 2020. Please have the list approved in writing by the town Supervisor and return all original documentation to the Lake Carmel Fire Department. It will then be forwarded to the plan administrators so that they can update their records.

Thank You

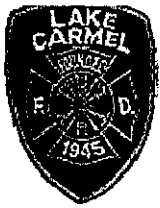
Ryan Benson, President, LCFD

Justyn Lewis, Chief, LCFD

2021 MAR 12 AM 10:00

RECEIVED
MKTG DEPT
MAR 12 2021

062719
14



Lake Carmel Fire Department

851 Route 52
Carmel, NY 10512

Phone: (845) 225-3730 – Fax: (845) 225-0460



Chief

Justyn Lewis

1st Asst. Chief

Ken Luanzinger

2nd Asst. Chief

Donald Lowndes

President

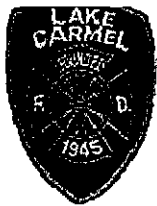
Ryan Benson

Vice President

Ed. Schaeffler Jr.

Members of the Lake Carmel Fire Department who qualified for the Service Awards Program for 2020.

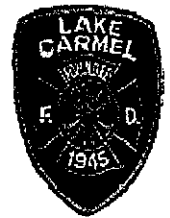
Adams, J.	Lowndes, D.
Bellmio, T.	Madsen, M.
Bellmio, T.A.	Madsen, S.
Benson, Robert	McCarthy, F.
Benson, Bob Sr.	Ment, E.
Benson, Ryan	Miale, F.
Bradshaw, M.	Morin, R.
Cecere, V.	Mueller, C.
Cranston, J.	Norcini, J.
Dellaripa, C.	Perrault, A.
Donohue, T.J.	Piekarski, R.
Dzubak, M.	Pinto, S.
Ehret, T.	Pixley, A.
Fiorentino, V.	Rodda, M.
Fitzsimmons, M.	Rodriguez, L.
Forbes, W.	Rose, J.
Gaffney, J.	Rose, M.
Gallagher, D.	Ryan, Jess
Gallagher, J.	Schaeffler, E.
Gannon, D.	Schaeffler, E. Jr.
Gamache, L.	Schaniel, R.
Hallisey, E.	Schlegel, R.
Hill, D.	Scott, E.
Iannarelli, E.	Shannon, C.
Iannarelli, M.	Smith, R.
Keck, E.	Sorbellini, S.
Launzinger, K.	Sullivan, T.
Lewis, C.	Walters, W.
Lewis, J.	Wiegand, S.



Lake Carmel Fire Department

851 Route 52
Carmel, NY 10512

Phone: (845) 225-3730 – Fax: (845) 225-0460



Chief

Justyn Lewis

1st Asst. Chief

Ken Luanzinger

2nd Asst. Chief

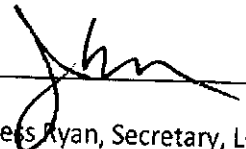
Donald Lowndes

President

Ryan Benson

Vice President

Ed. Schaeffler Jr.



Jess Ryan, Secretary, LCFD

As per town resolution adopted on _____, the town of Kent accepts the enclosed list for the Service Awards Program for the year of 2020.

I, Yolanda D Cappelli, Town Clerk of the Town of Kent, County of Putnam, State of New York, do hereby certify that this list was accepted by the Town of Kent Board at their meeting of 2020.

Yolanda D Cappelli, Town Clerk

Maureen Fleming, Town Supervisor

Tamara Harrison

From: wrecher@verizon.net
Sent: Sunday, March 07, 2021 10:23 PM
To: Lana Cappelli
Cc: Jamie McGlasson; Christopher Ruthven; 'Perex, Madeline'; 'Wargas, Cathy'; 'Rob Ulich'; pcm6@cornell.edu; 'Dale Cusack'; 'Joseph Fleischman';
Subject: Maureen Fleming; Lake Carmel Parks Clerk; Tamara Harrison
Attachments: LCPDAB Board Member Interview and Recommendation
 Lake Carmel Advisory Board letter of interest 2-18-2021.docx

TOWN OF KENT NOTICE

THIS EMAIL IS FROM AN EXTERNAL SENDER!

DO NOT click links, DO NOT open attachments, DO NOT forward if you were not expecting this email or if it seems suspicious in any way! REMEMBER: NEVER provide your user ID or password to anyone for any reason!

Hi Lana,

I am contacting you today to request that the Kent Town Board consider and vote on the recommendation of our Lake Carmel Park District Advisory Board to accept the application of Jerri Jacobs to join us as a member.

Please see attached her letter of interest, and let me know if you require any further information at this time. Her email is [j.](#)

Thank you!

Regards,

Walt

Walter Recher
 Lake Carmel Park District Advisory Board
 Chairperson

February 18, 2021

Lake Carmel Park District Clerk – Heidi Link

Dear Heidi,

I am interested in participating on the Advisory Board.

I am a 30 year resident of Lake Carmel. I raised my 4 children here and work for the Carmel School District as an Administrative Assistant for last 20 years. I am also a part time real estate agent with Coldwell Banker Fowkes in Carmel. I have a vested interest in our area and would like to be more involved.

Please let me know if you need more information from me.

Sincerely,

Jerri Jacobs

Carmel, NY 10512



Town of Kent Highway Department
Richard T. Othmer, Jr., Highway Superintendent
 62 Ludington Court
 Kent Lakes, New York 10512
 (845) 225-7172 Fax (845) 225-9464
 Email: rothmer@townofkentny.gov

MEMORANDUM

Date: March 8, 2021

To: Kent Town Board

From: Richard T Othmer Jr. Town of Kent Highway Superintendent

**Subject: Memo of Support – Inter Department Municipal Sale.
 Selling of Highway Truck #52 to Lake Carmel Parks Department.**

Honorable Members of the Board & Municipal Repairs Manager;

Municipal Repairs Manager Nick Mancuso alerted me to the fact that the Lake Carmel Parks Department needed to purchase a new dump truck to replace its 30-year-old, 1992 International 400 model. Nick said it was at the end of its service life and was ready for the junkyard. Last month the Board approved me to auction off Highway Truck #52, a 2016 International Terrastar dump truck that we determined was not suited for municipal highway / snow duty.

However, this truck would be perfect for parks department work. My goal was to cover the majority of expenses for my replacement truck and I was expecting to retrieve \$75,000.00 at auction. To purchase a new Terrastar like this with all its attachments' would cost \$150,000. Nick suggested that I sell it to the LCPD for the said \$75,000.00, which would be an easy solution for both situations.

The truck is only five years old & we know its service history, no hidden surprises under the hood. Additionally, the LCPD would be getting an excellent semi-new truck with low mileage at a bargain rate. They could count on this truck for the next 20 years, as they do not incur the heavy demands that the highway trucks do. This is fine with me; it just has to be approved by the Repairs Manager & the Board. I would ask that you make a quick decision, as I would like to auction this off during the busy spring season. Thank you.

Sincerely;


 Richard T Othmer Jr.



Town of Kent Municipal Repairs
62 Ludington Court
Carmel, New York 10512
(845) 225-6612 Fax (845) 225-9464
Nicholas Mancuso, Automotive Service Manager
municipalrepairs@townofkentny.gov

Date: March 8 2021

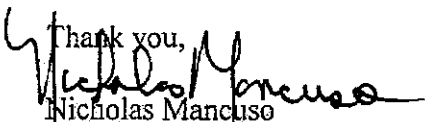
Subject: Highway Truck 52

Supervisor Maureen Fleming and Town board members,

I was approached by the Parks Department Foreman Frank regarding the condition of Parks Department truck # 14- 1992 International 400 series dump Truck. The truck is in the shop for its annual season get ready and New York State Inspection. At this point the vehicle has reached the end of its service life. There are signs of frame failure from rust and old age. The front suspension is worn and kingpins have excessive movement. All combined the Truck will not pass New York State inspection and my recommendation is to send out to auction or scrap. I would settle for whichever gets the Town the greatest return.

I feel we have a solution at hand. Just a couple weeks back I was speaking with Frank regarding the condition of the above mentioned truck and investigating the options for a replacement. I have an option I found on State bid for a replacement truck. International dump for \$220,000.00 The solution I feel and of course with the approval of all is that Highway has Highway Truck # 52 - 2015 International Terrastar Dump / sander / Plow truck that is not a great fit for Highway and was approved for auction. The Terrastar if purchased new as currently equipped cost \$150,000.00. The auction site generally returns \$75,000 for this truck with all its accessories. I spoke with highway Superintendent Rich Othmer regarding the option of The parks Department getting this Truck. This truck would be a perfect fit for the Parks Department and should last 15 to 20 years and is better equipped for the Parks department than Highway. Its a lighter duty truck (19,000 LBS) and Highway purchased only one for the purpose of getting down the smaller roads for plowing and found that Dodge Ram trucks out perform this middle of the road truck option. It is set more for a landscaper / parks/ recreation environment opposed to Highway. I look forward to the decision of the Town Board and look forward to making the transition work.

Thank you,


Nicholas Mancuso
Service Manger
Town of Kent

Memorandum of Agreement

Town of Kent and Local 456, International Brotherhood of Teamsters

WHEREAS, the Town of Kent, (the "Town"), and Local 456, International Brotherhood of Teamsters, ("Local 456"), are parties to a collective bargaining agreement, dated January 2, 2019 to December 31, 2022; and

WHEREAS, pursuant to Article I, Section 1, of the CBA, Local 456 is the sole and exclusive representative for all classifications listed in Appendix/Schedule "A" of the CBA; and

WHEREAS, the Town seeks to create the job title, Maintenance Welder/Motor Equipment Operator;

IT IS HEREBY AGREED by and between the Town and Local 456 that upon its adoption by the Town, the title, Maintenance Welder/Motor Equipment Operator, shall be placed and included in Appendix/Schedule "A" on the same salary line as Construction Equipment Operator (CEO).

TOWN OF KENT

LOCAL 456, I.B.T.

Maureen Fleming
Town Supervisor

Louis A. Picani
President/Principal Officer

Date

Date

**Bid Opening
On Call Services
March 5, 2021
12 p.m. Noon**

Present: Supervisor Fleming, Town Clerk Cappelli

1. Jim Liebler, Inc. 235 Nimham Road Carmel, NY 10512
Carpentry \$65/per hour
Non Collusion enclosed
2. HRR Industries, Inc. 568 North Main St. Brewster, NY 10509
HVAC \$125/per hour
Non Collusion enclosed
3. Corporate Vision, Inc. 8318 Durelee Lane Ste 205 Douglasville, GA 30134
Painting/Carpentry/Handyman \$60/per hour
Non Collusion enclosed

NORTHEAST GENERATOR CO.

The Power People

625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284

Toll Free: 1-800-972-4264

www.northeastgenerator.com

Town of Kent
25 Sybil's Crossing
Kent Lakes NY 10512

Wednesday, February 17, 2021

(845) 702-3033

lcappelli@townofkentny.gov

Ref: Northeast Generator Preventative Maintenance Service

Dear Lana Cappelli,

We are pleased to provide you pricing on the Generator Preventative Maintenance Service of Town of Kent pump station generators.

Statement of Work: Listed below is a breakdown for the scope of work for your use and information.

- **One (1) Full Major Preventative Maintenance Service** on above referenced generators. Replacement of engine lubricating oil and filters, fuel filters, top off coolant, clean, inspect generator and ATS, and offer recommendations.
- **One (1) Full On Site Inspection** including a complete inspection of generator, ATS, and associated systems. Top off all fluids, clean.
- **One (1) Automatic Transfer Switch ATS inspection** (To be performed during the Minor PM inspection)

<u>Location</u>	<u>Equipment/Size</u>	<u>Major PM</u>	<u>Minor PM</u>	<u>ATS</u>
West Lakeshore and Rte 52	Kohler 45REZG/45KW	\$345.00/visit	\$200.00/visit	N/C
441-443 Rte 52	Kohler/ 25KW	\$290.00/visit	\$175.00/visit	N/C
325 Rte 52	Kohler 45REZG/45KW	\$345.00/visit	\$200.00/visit	N/C

Total Proposal: \$1,555.00 plus tax

*Pricing includes normal maintenance materials, labor, travel and equipment as described above. Pricing does not include replacement parts or costs associated with Service Calls or Repairs. Agreement renews automatically unless otherwise specified.

Repair Hourly Rates:

- Straight Time \$140.00 per hour
- Overtime \$210.00 per hour
- Holiday Time \$280.00 per hour
- Flat Rate Vehicle Fee: \$45.00/visit
- Standard Equipment & Supplies: \$12.50/visit

* Please check terms of service.

NORTHEAST GENERATOR CO.

The Power People

625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284

Toll Free: 1-800-972-4264

www.northeastgenerator.com

We look forward to working with you on this project. This estimate will serve as your contract when is signed.

This estimation is valid only for 30 days.

Signature

Date

Print

Thank you again for your business, and please do not hesitate to call me with any questions on your specific installation.

Sincerely,

Sara Hughes
Northeast Generator Co.
Tel: (203) 336-3031
Fax: 203-337-1284
625 John St. Bridgeport, CT 06604

NORTHEAST GENERATOR CO.

The Power People

625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284

Toll Free: 1-800-972-4264

www.northeastgenerator.com

MASTER GENERATOR SERVICE AGREEMENT

This Agreement ("Agreement") is entered into this 2/17/2021 by and between Town of Kent ("Contractor") and Northeast Generator Co., with its principal place of business at 625 John Street, Bridgeport, CT 06604 ("Subcontractor"), relative to certain projects (collectively, "Projects", and each individually, a "Project") awarded to Subcontractor by Contractor.

WHEREAS, Contractor desires Subcontractor to perform the project defined in the Statement of Work on behalf of Contractor in performing and completing the Project; and

WHEREAS, Contractor is willing to contract with Subcontractor to perform the work associated with the Statement of Work defined in the first page of this document; and

WHEREAS, the purpose of this Agreement is to provide one master agreement that will govern all subcontract work performed by Subcontractor on behalf of Contractor and set forth the special terms and conditions to which the parties have agreed in reference to specifically performing the Project as specified in the Statement of Work.

NOW, THEREFORE, for good and adequate consideration, the sufficiency of which is hereby acknowledged, the parties have agreed as follows:

1. Statement of Work

The parties agree that the work contemplated herein may include all products, services, materials, and equipment to be provided by Subcontractor in performing and completing the Project (the "Work") which may include but are not limited to, equipment installations, preventative maintenance, and various generator service projects as is further defined in the Statement of Work section on the first page of this document. All Work shall be in accordance with this Agreement and shall be so performed under the scope of work defined in the Statement of Work, regardless of any other scope defined in a prime contract by Contractor not specified in this document. The Work and the requirements thereof, contemplated herein is more fully set forth in the Statement of Work section on the first page of this document, delivered by Contractor as accepted by Subcontractor which shall reference this Agreement and shall constitute the Statement of Work for each such Project (the "Statement of Work", each of which shall constitute a Statement of Work hereunder).

2. Coverage

This agreement covers the equipment and locations only specified in the Statement of Work section of this document. The preventative maintenance is separate from your factory warranty. Subcontractor is not responsible for the pre-existing condition of parts or equipment or for any unforeseen circumstances that may arise before, during, or after the above referenced work takes place.

3. Payment Terms

The fees for each Project shall be set forth in the applicable Statement of Work section of this document. Subcontractor will submit invoices to Contractor for payment of services rendered in the following manner:

- Every item defined in the Statement of Work will be considered as a "Work Order" and will be invoiced individually per site and after the service is performed on a daily basis.
- Payment would be submitted to Subcontractor within NET-30 days of an undisputed invoice.
- All scenarios different than invoicing every "Work Order" on a daily basis will be considered Special Billing and subject to a documentation fee, including but not limited to: monthly account billing, billing using a third-party system or billing in a different template used by Subcontractor.
- Subcontractor reserves the right to price and mark-up any material used. Contractor has the option to inquire about the material prices ahead of time in case Contractor decides to provide them. All work by Subcontractor does NOT include materials otherwise specified in the Statement of Work.
- Travel fees and additional troubleshooting work is subject to additional fees otherwise specified in the Statement of Work and would be billed separately.
- Subcontractor reserves the right to suspend any work if payment has not been submitted within NET-30 days of an undisputed invoice.
- Work hours are considered between 7AM and 3:30PM Eastern time. Any work requested after 3:30PM EST is subject to additional overtime fees.
- All requested work by Contractor would be considered as "billable time" under the Statement of Work. All additional work requested and authorized by Contractor would be billed under Time and Material rates.
- If Contractor would request background checks for Subcontractor's employees, the fees for the reports are considered additional and NOT included in the Statement of Work and would be covered by Contractor.

NORTHEAST GENERATOR CO.

The Power People

625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284

Toll Free: 1-800-972-4264

www.northeastgenerator.com

4. **Commencement, Renewal, Terms**
Work will commence once Contractor provides an initial form of payment, purchase order or by signing this contract. Contractor agrees to an initial Service period of one (1) year. This contract is going to be automatically renewed 30 days before the end of the initial Service period for the duration of one year, and upon each annual anniversary thereafter shall renew for one year, until Subcontractor or Contractor indicates termination in writing. Contractor may terminate work by notifying Subcontractor in writing anytime before the upcoming automatic renewal date. Once the Contractor has notified Subcontractor of termination, work shall be terminated at the end of the Service period currently in effect.
5. **Equipment and Warranty**
Contractor acknowledges that Subcontractor is not the manufacturer of the Equipment, and is not responsible for any defects or malfunction of the same. Subcontractor will work with Contractor and the equipment manufacturer in the event of defects and malfunction if requested.
6. **Pre-existing conditions**
Subcontractor is not responsible for the pre-existing condition of parts or equipment or for any unforeseen circumstances that may arise before, during, or after the above references work takes place.
7. **Insurance**
Contractor agrees that: (a) neither Subcontractor nor the manufacturer of the Equipment are insurers of Contractor or other persons living in, or present at the Contractor's premises, or of Contractor's premises or its contents; (b) it is Contractor's responsibility to obtain adequate insurance covering Contractor's, premises and its contents, and other members of Contractor's business or direct customers, and other affected persons and property; (c) Subcontractor's service fees are based on the value of the services provided under this contract, and not on the value of Contractor's premises or its contents, (d) the Equipment and Service may not always operate as intended for various reasons. We cannot predict the potential amount, extent, or severity of any damages or injuries that Contractor or others may incur which could be due to the failure of the Equipment or Service to work as intended. As such (i) Contractor hereby agrees that the limits on the liability of Subcontractor and manufacturer of Equipment, and the waivers and indemnities set forth in this contract are a fair allocation of risks and liabilities between Contractor, Subcontractor, Equipment manufacturer and any other affected third parties; (ii) Contractor will look exclusively to its insurer for financial protection from such risks and liabilities, and (iii) except as provided in paragraph styled "limitation of liability" below, Contractor waives all rights and remedies against Subcontractor and Equipment manufacturer, including rights of subrogation, that Contractor, any insurer, or other third party may have due to any losses or injuries Contractors or others incur.
8. **Limitation of liability.** Contractor's exclusive remedies for the liability of Subcontractor and Equipment manufacturer are set forth in this paragraph. Except as provided in this paragraph, neither Subcontractor, Equipment manufacturer, nor any person or entity affiliated with any of them shall be liable for any loss, injury, or other consequence arising directly or indirectly from the failure of either the Equipment or the Service to work as intended, or delays in the installation of or repairs to Contractor's Equipment. Neither Subcontractor, nor Equipment manufacturer are liable for interruptions of Service beyond their control, or any resulting consequences. Should such interruption occur, neither Subcontractor nor Equipment manufacturer are obligated to supply Contractor with substitute services. ~~If Subcontractor, Equipment manufacturer, or any person or entity affiliated with any of them are determined to be responsible for any such loss, injury, or other consequence, Contractor's claims shall be limited to the lesser of \$100.00 as liquidated damages and not as a penalty. This amount is Contractor's sole remedy no matter how the loss, injury, or other consequence is caused. Neither Subcontractor nor Equipment manufacturer shall be liable to Subscriber or any other person for any incidental, punitive, speculative or consequential damages.~~
9. **Force Majeure.** Neither party shall be liable in damages or have the right to terminate this contract for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
10. ~~**Hold Harmless.** If any third party files any claim or legal action against Subcontractor, Equipment manufacturer or any other person or entity authorized to act on Subcontractor's behalf, arising from the Equipment or Service, Contractor agrees to defend and hold Subcontractor and Equipment manufacturer completely harmless from any such actions, including all damages, expenses, costs, and attorneys' fees they may incur.~~
11. **Changes.** No change to this contract shall be effective unless made in writing and executed by all parties.

SH
3/2/21

SH
3/2/21

NORTHEAST GENERATOR CO.

The Power People

625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284

Toll Free: 1-800-972-4264

www.northeastgenerator.com

AGREED BY:
Contractor

Signature: _____

Name: _____

Date: _____

I ACKNOWLEDGE THAT THIS CONTRACT CONTAINS A LIQUIDATED DAMAGES PROVISION
x _____ (initial)

NORTHEAST GENERATOR CO.

The Power People
625 John Street
Bridgeport, CT 06604

(203)336-3031 • Fax: (203)337-1284
Toll Free: 1-800-972-4264
www.northeastgenerator.com

WindRiver Environmental
 99 Maple Grange Road
 Vernon, NJ 07462
 800-428-6166
 973-764-6100
 973-764-9148 Fax



Proposal

Proposal Submitted To: Town of Kent		Attn: Dan	
25 Sybil's Crossing			
Kent Lakes, NY 10512			
Phone: 845.306.5920	Date: March 4, 2021	Phone: 845.392.3363	Fax:

EarthCare to provide equipment and manpower to camera 8" lines throughout the town of Kent.

- Camera w/ operator @ \$2,650.00 – up to (8) hours - \$112.50/hr after (8) hours
- Additional Labor Technician @ \$1,275.00 – up to (8) hours - \$90.00/hr after (8) hours

** Prices are based on prevailing wage rates **
 ** Prices are for daily rate **

We Propose hereby to furnish material and labor -- complete in accordance with above specifications, for the sum of:
As stated above.

Payment to be made as follows: **NET 30 DAYS**

<p>All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alterations or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.</p>	<p>Authorized Signature <u>Michael Lauersen</u> Michael Lauersen</p>
<p>Note: This proposal may be withdrawn by us if not accepted with in 30 days.</p>	
<p>Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Any payments not made when due shall be subject to a 1-1/2% interest fee per month until paid and I shall be responsible for all collection costs including a reasonable attorney's fee. DAMAGE RELEASE - I am aware that some damage might occur during commission of this work and I agree not to hold Residuals Management Services, LLC. responsible for any off road damages.</p>	
Signature _____	Signature _____ Date of Acceptance _____



Public Employer Health Emergency Plan for the Town of Kent

date of approved plan

This plan has been developed in accordance with NYS legislation S8617B/A10832.

Promulgation

This plan has been developed in accordance with the amended New York State Labor Law section 27-c and New York State Education Law paragraphs k and l of subdivision 2 of section 2801-a (as amended by section 1 of part B of chapter 56 of the laws of 2016), as applicable.

This plan has been developed with the input of the Town of Kent Police Benevolent Association, Inc, the International Brotherhood of Teamsters, Local 456 and the United Federation of Police Officers, as required by the amended New York State Labor Law.

No content of this plan is intended to impede, infringe, diminish, or impair the rights of us or our valued employees under any law, rule, regulation, or collectively negotiated agreement, or the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.

This plan has been approved in accordance with requirements applicable to the agency, jurisdiction, authority, or district, as represented by the signature of the authorized individual below.

As the authorized official of the Town of Kent, I hereby attest that this plan has been developed, approved, and placed in full effect in accordance with S8617B/A10832 which amends New York State Labor Law section 27-c and New York State Education Law paragraphs k and l of subdivision 2 of section 2801-a (as amended by section 1 of part B of chapter 56 of the laws of 2016), as applicable, to address public health emergency planning requirements.

Signed on this day: date

By: Maureen Fleming

Signature: _____

Title: Town Supervisor

Record of Changes

Date of Change	Description of Change	Implemented by

Table of Contents

Promulgation.....	1
Record of Changes.....	2
Purpose, Scope, Situation Overview, and Assumptions	4
Purpose.....	4
Scope.....	4
Situation Overview.....	4
Planning Assumptions.....	4
Concept of Operations.....	5
Mission Essential Functions.....	5
Essential Positions	7
Reducing Risk Through Remote Work and Staggered Shifts	9
Remote Work Protocols.....	9
Staggered Shifts.....	9
Personal Protective Equipment.....	10
Staff Exposures, Cleaning, and Disinfection	10
Staff Exposures	10
Cleaning and Disinfecting.....	12
Employee and Contractor Leave	13
Documentation of Work Hours and Locations.....	13
Housing for Essential Employees	14

Purpose, Scope, Situation Overview, and Assumptions

Purpose

This plan has been developed in accordance with the amended New York State Labor Law section 27-c and New York State Education Law paragraphs k and l of subdivision 2 of section 2801-a (as amended by section 1 of part B of chapter 56 of the laws of 2016), as applicable. These laws were amended by the passing of legislation S8617B/A10832 signed by the Governor of New York State on September 7, 2020, requires public employers to adopt a plan for operations in the event of a declared public health emergency involving a communicable disease. The plan includes the identification of essential positions, facilitation of remote work for non-essential positions, provision of personal protective equipment, and protocols for supporting contact tracing.

Scope

This plan was developed exclusively for and is applicable to the Town of Kent. This plan is pertinent to a declared public health emergency in the State of New York which may impact our operations; and it is in the interest of the safety of our employees and contractors, and the continuity of our operations that we have promulgated this plan.

Situation Overview

On March 11, 2020 the World Health Organization declared a pandemic for the novel coronavirus, which causes the COVID-19 severe acute respiratory syndrome. This plan has been developed in accordance with amended laws to support continued resilience for a continuation of the spread of this disease or for other infectious diseases, which may emerge and cause a declaration of a public health emergency.

The health and safety of our employees and contractors is crucial to maintaining our mission essential operations. We encourage all employees and contractors to use [CDC Guidance for Keeping Workplaces, Schools, Homes, and Commercial Establishments Safe](#). The fundamentals of reducing the spread of infection include:

- Using hand sanitizer and washing hands with soap and water frequently, including:
 - After using the restroom
 - After returning from a public outing
 - After touching/disposing of garbage
 - After using public computers, touching public tables, and countertops, etc.
- Practice social distancing when possible
- If you are feeling ill or have a fever, notify your supervisor immediately and go home
- If you start to experience coughing or sneezing, step away from people and food, cough or sneeze into the crook of your arm or a tissue, the latter of which should be disposed of immediately
- Clean and disinfect workstations at the beginning, middle, and end of each shift
- Other guidance, which may be published by the CDC, the State Department of Health, or County health officials.

Planning Assumptions

This plan was developed based on information, best practices, and guidance available as of the date of publication. The plan was developed to largely reflect the circumstances of the current Coronavirus pandemic but may also be applicable to other infectious disease outbreaks.

The following assumptions have been made in the development of this plan:

- The health and safety of our employees and contractors, and their families, is of utmost importance
- The circumstances of a public health emergency may directly impact our own operations.
- Impacts of a public health emergency will take time for us to respond to, with appropriate safety measures put into place and adjustments made to operations to maximize safety
- The public and our constituency expects us to maintain a level of mission essential operations
- Resource support from other jurisdictions may be limited based upon the level of impact the public health emergency has upon them
- Supply chains, particularly those for personal protective equipment (PPE) and cleaning supplies, may be heavily impacted, resulting in considerable delays in procurement
- The operations of other entities, including the private sector (vendors, contractors, etc.), non-profit organizations, and other governmental agencies and services may also be impacted due to the public health emergency, causing delays or other disruptions in their services
- Emergency measures and operational changes may need to be adjusted based upon the specific circumstances and impacts of the public health emergency, as well as guidance and direction from public health officials and the governor
- Per S8617B/A10832, 'essential employee' is defined as a public employee or contractor that is required to be physically present at a work site to perform their job
- Per S8617B/A10832, 'non-essential employee' is defined as a public employee or contractor that is not required to be physically present at a work site to perform their job

Concept of Operations

The Town Supervisor of the Town of Kent, their designee, or their successor holds the authority to execute and direct the implementation of this plan. Implementation, monitoring of operations, and adjustments to plan implementation may be supported by additional personnel, at the discretion of the Town Supervisor.

Upon the determination of implementing this plan, all employees and contractors of the Town of Kent shall be notified by electronic mail, with details provided as possible and necessary, with additional information and updates provided on a regular basis. Town employees and the general public will be notified of pertinent operational changes by way of emails and updates on the Town website. Other interested parties, such as vendors, will be notified by phone and/or email as necessary. The Town Supervisor of the Town of Kent will maintain communications with the public and constituents as needed throughout the implementation of this plan.

The Town Supervisor of the Town of Kent, their designee, or their successor will maintain awareness of information, direction, and guidance from public health officials and the Governor's office, directing the implementation of changes as necessary.

Upon resolution of the public health emergency, the Town Supervisor of the Town of Kent, their designee, or their successor will direct the resumption of normal operations or operations with modifications as necessary.

Mission Essential Functions

When confronting events that disrupt normal operations, the Town of Kent is committed to ensuring that essential functions will be continued even under the most challenging circumstances.

Essential functions are those functions that enable an organization to:

1. Maintain the safety of employees, contractors, and our constituency
2. Provide vital services
3. Provide services required by law
4. Sustain quality operations
5. Uphold the core values of the Town of Kent

The Town of Kent has identified as critical only those priority functions that are required or are necessary to provide vital services. During activation of this plan, all other activities may be suspended to enable the organization to concentrate on providing the critical functions and building the internal capabilities necessary to increase and eventually restore operations. Appropriate communications with employees, contractors, our constituents, and other stakeholders will be an ongoing priority.

Essential functions are prioritized according to:

- The time criticality of each essential function
- Interdependency of a one function to others
- The recovery sequence of essential functions and their vital processes

Priority 1 identifies the most essential of functions, with priority 4 identifying functions that are essential, but least among them.

The mission essential functions for the Town of Kent have been identified as:

Essential Function	Description	Priority
Policing	All police functions	1
Snow Plowing, Road Repair and Road Maintenance	Maintains the roads in drivable condition.	1
Finance	Processes Town payroll and ensures that Town vendors and contractors are paid.	1
Licenses and Certificates	Marriage licenses, death certificates	2
Information Technology	Provides all hardware and software for the town. Maintains the town's network and phone system.	2
Sanitation	Provide garbage and recycling pickup in the District	1
Municipal Repair	Ensure Town vehicles including, but not limited to, police vehicles and highway vehicles, are maintained and in working order during emergencies	1

Collecting taxes	Collecting taxes	2
Recreation	Recreational activities	4
Parks	Maintain parks and Town Center	2
Facilities Maintenance	Maintains buildings and grounds at Town Center	1
Human Resources	Ensures all scheduling and paperwork regarding employees and retirees, including, but not limited to, health insurance, unemployment, new hires, drug testing is completed	3
Building permits and inspections	Ensures that the Town Code is complied with regarding new buildings and renovations	3
Fire inspections	Ensures compliance with code	4
Code enforcement	Ensures that the property maintenance code is complied with	2
Assessing	Valuates properties in Town and processes exemptions	4
Planning	Guide the orderly growth and development of the community	4
Zoning	Regulate the use, placement of structures, and other such requirements for every parcel of land, as well as grant variances	4
Lake Carmel Park District	Maintains grounds and beaches in the Lake Carmel Park District	2

Essential Positions

Each essential function identified above requires certain positions on-site to effectively operate. The table below identifies the positions or titles that are essential to be staffed on-site for the continued operation of each essential function. Note that while some functions and associated personnel may be essential, some of these can be conducted remotely and do not need to be identified in this section.

Essential Functiona	Essential Positions/Titles	Justification for Each
---------------------	----------------------------	------------------------

Policing	Chief of Police Lieutenant Sergeants Detective Sergeant Detective Police Officers Dispatchers	The Police Department is essential to respond to emergencies of all types, ensure the safety and security of individuals within the confines of the Town and maintain order.
Snow removal, road repair, road maintenance	<ul style="list-style-type: none"> • Highway Department Superintendent • Highway Supervising Crew Chief • Highway Crew Chiefs, CEO's, MEO's, Laborer 	During emergencies, it is essential to have Town roads maintained and kept clear to allow emergency vehicles to traverse the Town and to allow Town residents to access supermarkets, pharmacies and places of employment.
Facilities Maintenance	Facilities Maintenance Worker	Maintains buildings and grounds at Town Center
Finance	Director of Finance Payroll Clerk	Ensures Town payroll is met and vendors and contractors are paid
Licenses and certificates, performs marriages, FOIL requests, maintenance of Town records	Town Clerk Deputy Town Clerks Records Clerks	Issues death certificates and marriage licenses. Also, performs marriages. Issues other necessary licenses and maintains Town records.
Sanitation	Crew Chief CEO's MEO's Laborers Sanitation Clerk	Sanitation is essential to ensure that the garbage and recycling in the District are picked up and do not pile up leading to dangerous and unsanitary conditions and vermin.
Municipal Repair	Service Manager Mechanics	Town vehicles, including but not limited to Police, Highway and Sanitation vehicles, must be maintained in working order at all times
Parks	Crew Chief Park Maintenance Worker	Maintain parks and Town Center

Lake Carmel Park District	Crew Chief CEO Laborer	Maintains grounds and beaches in the Lake Carmel Park District
------------------------------	------------------------------	--

Reducing Risk Through Remote Work and Staggered Shifts

Through assigning certain staff to work remotely and by staggering work shifts, we can decrease crowding and density at work sites and on public transportation.

Remote Work Protocols

Essential non-essential employees and contractors able to accomplish their functions remotely will be enabled to do so to the greatest extent possible. Working remotely requires:

1. Identification of staff who will work remotely
2. Approval and assignment of remote work
3. Equipping staff for remote work, which may include:
 - a. Internet capable laptop
 - b. Necessary peripherals
 - c. Access to VPN and/or secure network drives
 - d. Access to software and databases necessary to perform their duties
 - e. A solution for telephone communications
 - i. Note that phone lines may need to be forwarded to off-site staff

Essential and non-essential department heads able to accomplish their functions remotely will be provided the necessary tools to work remotely. Non-department heads will be provided such tools on an as needed basis. Remote access to emails and other work-related software will be provided. Incoming department phone calls will either be forwarded to the department head or voice messages will be retrieved and responded to remotely. This does not apply to the Town Courts as their procedures are determined by the Administrative Judge of the 9th Judicial District and the Town has no jurisdiction in any of the matters determined by the Administrative Judge.

Staggered Shifts

Implementing staggered shifts may be possible for personnel performing duties that are necessary to be performed on-site but perhaps less sensitive to being accomplished only within core business hours. As possible, management will identify opportunities for staff to work outside core business hours as a strategy of limiting exposure. Regardless of changes in start and end times of shifts, the Town of Kent will ensure that employees are provided with their typical or contracted minimum work hours per week. Staggering shifts requires:

1. Identification of positions for which work hours will be staggered
2. Approval and assignment of changed work hours

Whenever a department head has more than two employees, that department may institute staggered work hours such as one day or week in the office and one day or week out. Workers who are assigned to work from home shall work the same hours they would work if in the office.

Personal Protective Equipment

The use of personal protective equipment (PPE) to reduce the spread of infectious disease is important to supporting the health and safety of our employees and contractors. PPE which may be needed can include:

- Masks
- Face shields
- Gloves
- Disposable gowns and aprons

Note that while cleaning supplies are not PPE, there is a related need for cleaning supplies used to sanitize surfaces, as well as hand soap and hand sanitizer. The Coronavirus pandemic demonstrated that supply chains were not able to keep up with increased demand for these products early in the pandemic. As such, we are including these supplies in this section as they are pertinent to protecting the health and safety of our employees and contractors.

Protocols for providing PPE include the following:

1. Identification of need for PPE based upon job duties and work location
2. Procurement of PPE
 - a. As specified in the amended law, public employers must be able to provide at least two pieces of each required type of PPE to each essential employee and contractor during any given work shift for at least six months
 - b. Public employers must be able to mitigate supply chain disruptions to meet this requirement
3. Storage of, access to, and monitoring of PPE stock
 - a. PPE must be stored in a manner which will prevent degradation
 - b. Employees and contractors must have immediate access to PPE in the event of an emergency
 - c. The supply of PPE must be monitored to ensure integrity and to track usage rates

The Town Supervisor will make every effort to ensure that adequate and appropriate PPE is available and provided to each department. The department head shall monitor the need for additional PPE and request such from the Town Supervisor. The Town Supervisor will coordinate the procurement of necessary PPE and cleaning supplies from Putnam County, when available, and from private sources when not available through Putnam County. Sufficient PPE will be stored at the Town Hall, the Kent Police Department and the Town Highway garage.

Staff Exposures, Cleaning, and Disinfection

Staff Exposures

Staff exposures are organized under several categories based upon the type of exposure and presence of symptoms. Following CDC guidelines, we have established the following protocols:

- A. If employees or contractors are exposed to a known case of communicable disease that is the subject of the public health emergency (defined as a 'close contact' with someone who is confirmed infected, which is a prolonged presence of fifteen minutes or more within six feet with that person):
1. Potentially exposed employees or contractors who do not have symptoms should remain at home or in a comparable setting and practice social distancing for the lesser of 14 days or other current CDC/public health guidance for the communicable disease in question. (This may change or need to be updated as CDC/NYS or Local Health Department requirements change.)
 - a. As possible, these employees will be permitted to work remotely during this period of time if they are not ill.
 - b. The Town Supervisor must be notified and is responsible for ensuring these protocols are followed.
 - c. See the section titled Documentation of Work Hours and Locations for additional information on contact tracing
 2. CDC guidelines for COVID-19 provide that critical essential employees may be permitted to continue work following potential exposure, provided they remain symptom-free and additional precautions are taken to protect them, other employees and contractors, and our constituency/public.
 - a. Additional precautions will include the requirement of the subject employee or contractor, as well as others working in their proximity, to wear appropriate PPE at all times to limit the potential of transmission.
 - b. In-person interactions with the subject employee or contractor will be limited as much as possible.
 - c. Work areas in which the subject employee or contractor are present will be disinfected according to current CDC/public health protocol at least every hour, as practical. See the section on Cleaning and Disinfection for additional information on that subject.
 - d. If at any time they exhibit symptoms, refer to item B below.
 - e. The Town Supervisor is the decision-maker in these circumstances and who is responsible for ensuring these protocols are followed.
- B. If an employee or contractor exhibits symptoms of the communicable disease that is the subject of the public health emergency:
1. Employees and contractors who exhibit symptoms in the workplace should be immediately separated from other employees, customers, and visitors. They should immediately be sent home with a recommendation to contact their physician.
 2. Employees and contractors who exhibit symptoms outside of work should notify their supervisor and stay home, with a recommendation to contact their physician.
 3. Employees should not return to work until they have met the criteria to discontinue home isolation per CDC/public health guidance and have consulted with a healthcare provider.
 4. The Town of Kent will not require sick employees to provide a negative test result for the disease in question or healthcare provider's note to validate their illness, qualify for sick leave, or return to work; unless there is a recommendation from the CDC/public health officials to do so.
 5. CDC criteria for COVID-19 provides that persons exhibiting symptoms may return to work if at least 24 hours have passed since the last instance of fever without the use of fever-reducing medications. If the disease in question is other than COVID-19, CDC and other public guidance

- shall be referenced. (This may change or need to be updated as CDC/NYS or Local Health Department requirements change.)
6. Identify who, by title/position, in the Town of Kent must be informed in these circumstances and who is responsible for ensuring these protocols are followed
- C. If an employee or contractor has tested positive for the communicable disease that is the subject of the public health emergency:
1. Apply the steps identified in item B, above, as applicable.
 2. Areas occupied for prolonged periods of time by the subject employee or contractor will be closed off.
 - a. CDC guidance for COVID-19 indicates that a period of 24 hours is ideally given before cleaning, disinfecting, and reoccupation of those spaces will take place. If this time period is not possible, a period of as long as possible will be given. CDC/public health guidance for the disease in question will be followed.
 - b. Any common areas entered, surfaces touched, or equipment used shall be cleaned and disinfected immediately.
 - c. See the section on Cleaning and Disinfection for additional information on that subject.
 3. Identification of potential employee and contractor exposures will be conducted
 - a. If an employee or contractor is confirmed to have the disease in question, Town of Kent Supervisor or their designee should inform all contacts of their possible exposure. Confidentiality shall be maintained as required by the Americans with Disabilities Act (ADA).
 - b. Apply the steps identified in item A, above, as applicable, for all potentially exposed personnel.
 4. The Town of Kent Supervisor must be notified in these circumstances and who is responsible for ensuring these protocols are followed

We recognize there may be nuances or complexities associated with potential exposures, close contacts, symptomatic persons, and those testing positive. We will follow CDC/public health recommendations and requirements and coordinate with our local public health office for additional guidance and support as needed.

Cleaning and Disinfecting

CDC/public health guidelines will be followed for cleaning and disinfection of surfaces/areas. Present guidance for routine cleaning during a public health emergency includes:

1. As possible, employees and contractors will clean their own workspaces in the beginning, middle, and end of their shifts, at a minimum.
 - a. High traffic/high touch areas and areas which are accessible to the public/constituents will be disinfected at least hourly by the department head or assigned employee.
 - b. Common areas will be cleaned daily by the contractor employed by the Town.
2. Staff tasked with cleaning and disinfecting areas will be issued and required to wear PPE appropriate to the task.
3. Soiled surfaces will be cleaned with soap and water before being disinfected.
4. Surfaces will be disinfected with products that meet EPA criteria for use against the virus in question and which are appropriate for that surface.
5. Staff will follow instructions of cleaning products to ensure safe and effective use of the products.

Employee and Contractor Leave

Public health emergencies are extenuating and unanticipated circumstances in which the Town of Kent is committed to reducing the burden on our employees and contractors. The *Families First Coronavirus Response Act* provided requirements related to the COVID-19 pandemic, which form the policies outlined below. This policy may be altered based upon changes in law or regulation, as applicable.

It is our policy that employees of the Town of Kent will not be charged with leave time for testing. Employees will be provided with up to two weeks (80 hours) of paid sick leave at the employee's regular rate of pay for a period which the employee is unable to work due to quarantine (in accordance with federal, state, or local orders or advice of a healthcare provider), and/or experiencing symptoms and seeking medical diagnosis.

Further, the Town of Kent will provide up to two weeks (80 hours) of paid sick leave at two-thirds the employee's regular rate of pay if the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state, or local orders or advice of a healthcare provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to the public health emergency, and/or the employee is experiencing a substantially similar condition as specified by the CDC/public health officials. This provision may be modified if an employee is able to effectively work remotely and the need exists for them to do so.

Additionally, the Town of Kent will provide up to an additional 10 weeks of paid expanded family and medical leave at two-thirds of the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days by the Town of Kent, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to the public health emergency. This provision may be modified if an employee is able to effectively work remotely and the need exists for them to do so.

Additional provisions may be enacted based upon need and the guidance and requirements in place by federal and state employment laws, FMLA, executive orders, and other potential sources.

Contractors, either independent or affiliated with a contracted firm, are not classified as employees of the Town of Kent, and as such are not provided with paid leave time by the Town of Kent, unless required by law.

Documentation of Work Hours and Locations

In a public health emergency, it may be necessary to document work hours and locations of each employee and contractor to support contact tracing efforts. Identification of locations shall include on-site work, off-site visits, etc. This information may be used by the Town of Kent to support contact tracing within the organization and may be shared with local public health officials.

In such public health emergency, employees and contractors will be required to document dates, times and locations of individuals with whom they came in contact and maintain such log which shall be submitted to the Town Supervisor in the event that such information is necessary to assist public health officials with contact tracing efforts.

Housing for Essential Employees

There are circumstances within a public health emergency when it may be prudent to have essential employees lodged in such a manner which will help prevent the spread of the subject communicable disease to protect these employees from potential exposures, thus helping to ensure their health and safety and the continuity of the Town of Kent's essential operations.

If such a need arises, hotel rooms may be the most viable option. If hotel rooms are for some reason deemed not practical or ideal, or if there are no hotel rooms available, the Town of Kent will coordinate with the Putnam County to help identify and arrange for these housing needs. The Supervisor of the Town of Kent will be responsible for coordinating this.



As of April 1, 2021

DRAFT

Maureen Fleming, Supervisor
Town of Kent
25 Sybil's Crossing
Kent Lakes, NY 10512
[E-mail Address Here]

Re: LISC Program Action Number: [REDACTED]
Town of Kent

Dear Supervisor Fleming

Commitment of Grant:

I am pleased to inform you that Local Initiatives Support Corporation ("LISC") hereby agrees to provide a grant in the amount of \$50,000.00 (the "Grant") to the Town of Kent (the "Grantee"), for its zombie and vacant one-to-four family house identification, assessment, enforcement, policy and prevention initiatives on the terms set forth below. This Grant is being made as part of the activities of the New York State Housing Stabilization Fund, a LISC program that is funding the work of Municipalities (or their housing or finance agencies) to support Housing Quality Improvement and Code Enforcement Programs, among other activities.

LISC will disburse the proceeds of the Grant to the Grantee in installments, about every six months in the approximate amounts set forth in the schedule attached hereto (the Disbursement Schedule) by Automated Clearing House ("ACH") or by wire transmittal, it being understood, however, that disbursements after the first disbursement shall be subject to the conditions set forth below, including, but not limited to, expenditure of previous disbursement(s).

Grant Term:

The term of the Grant shall begin as of the date of the First Disbursement and end on **March 31, 2022** (the "Grant Expiration Date").

Local Initiatives Support Corporation – NYS Housing Stabilization Fund
501 Seventh Avenue, 7th Floor, New York, NY 10018

A. First Disbursement of Grant:

The First Disbursement will be made by LISC upon the satisfaction of the following conditions:

1. Receipt by LISC of a countersigned copy of this Grant Agreement executed by a duly authorized signatory of the Grantee, scanned and sent to LISC via e-mail in accordance with the directions below.

By countersigning this Grant Agreement, the Grantee agrees to the terms set forth herein (including the provisions of this Grant Agreement and confirmation that Grantee has agreed to the attached Work Plan and Grant Budget), and affirms that it will use Grant proceeds solely for its zombie and vacant one-to-four family house identification, assessment, enforcement, policy and prevention initiatives. Accepting the Grant proceeds will be further acknowledgement of Grantee's agreement to the terms and conditions of this Grant Agreement.

2. Receipt by LISC of all of the items included on the attached Due Diligence Checklist (Attachment D).
3. Receipt by LISC of completed and signed ACH instructions or of signed wire instructions on the attached form (Attachment E).
4. Completion and execution, by an authorized signatory, of a disbursement request on the attached form (Attachment F).

B. Subsequent Disbursements:

Subsequent disbursements shall be made approximately every six months after the previous disbursement, in accordance with the Disbursement Schedule, upon the satisfaction of the following conditions:

1. Completion and execution by an authorized signatory, of a disbursement request form.
2. An annotated copy of the Grant Budget, showing what portion of each line item was funded with the most recent Disbursement and how the next Disbursement will be allocated. Any proposed changes to the Grant Budget, if any, should be flagged and a brief written explanation must be provided for the proposed changes. (This is to be sent by e-mail in accordance with the instructions below.)

Grantee's compliance with the terms of this Grant Agreement and the General Terms and Conditions, Representations and Indemnification, is a condition to the making of any Subsequent Disbursement. Subsequent disbursements shall be in such amounts as are determined by LISC, based on Grantee's Periodic Written Reports, the Grant Budget, plus any adjustments for previously disbursed but unexpended Grant Proceeds.

Please also note – if Grantee fails to expend the full amount of the Disbursement during the six month disbursement period, the amount of the unexpended Grant proceeds can be deducted from the Subsequent Disbursement proceeds disbursed to the Grantee, in the sole discretion of LISC.

Reporting Requirements. During the course of the Grant, Grantee shall submit to LISC the following reports and information:

Periodic Written Reports - Until such time as the Grant has been fully expended, Grantee shall submit to LISC periodic reports approximately every three months on the attached forms ("Periodic Reports"). Grantee shall submit its first and subsequent Periodic Reports to LISC no later than 15 days before the end of each calendar quarter, beginning with the calendar quarter ending on June 30, 2021.

Final Report - Additionally, following Grantee's final expenditure of Grant Proceeds, Grantee shall submit a final report ("Final Report") to LISC detailing i) all expenditures and progress of ongoing projects from the previous reporting period, utilizing applicable portions of the Periodic Report Form and ii) a narrative report on the overall major accomplishments and problems faced by Grantee in utilizing the Grant. Grantee shall submit the Final Report on or before **March 31, 2022**.

Additional Reports or Other Information. LISC may, at any time and in its sole discretion, request Grantee to submit additional Periodic Reports or supplemental information for any submitted Periodic Report; Grantee shall submit to LISC such requested additional report within 10 business days of receipt of such request from LISC.

Technical Assistance/Monitoring

Phone Check-ins: In LISC's sole discretion, LISC can require Grantee to participate in periodic phone calls to review progress and challenges with implementing the Work Plan; such phone calls may occur once a month, once a quarter, or on another schedule specified by LISC.

Additional Technical Assistance: The Grantee may request additional technical assistance from LISC, as needed, in addition to the Technical Assistance set forth in this Grant Agreement, and LISC shall use reasonable efforts to provide such assistance, subject to financial resources and staff availability.

Visit(s) to Grantee: LISC, in its sole discretion, may make one visit a year to the Grantee's offices and to meet with staff hired using Grant proceeds and any staff and elected officials working on the Grant and to review Grant books and records, on a date mutually agreed upon by LISC and the Grantee.

Compliance with Terms; Incorporation

At all times, Grantee shall use Grant Proceeds in accordance with the terms of this Agreement. Further, the terms and provisions of all Attachments, as listed below, including but not limited to the General Terms and Conditions, Representations and Indemnification, are an integral part of this Agreement and are hereby incorporated into this Agreement; Grantee's activities shall comply at all times with the terms and provisions set forth therein.

Schedule of Attachments

The following documents form part of this Agreement:

1. Attachment A – Disbursement Schedule / Amounts
2. Attachment B – Approved Grant Budget.
3. Attachment C – Approved Work Plan.
4. Attachment D – Due Diligence Checklist
5. Attachment E – ACH Authorization / Wire Transfer Instructions
6. Attachment F – Disbursement Request Form
7. Attachment G - Periodic Reporting Forms – for Grant Budget and Work Plan.
8. Attachment H– General Terms and Conditions, Representations and Indemnification

Please email a scanned copy of the countersigned copy of this Grant Agreement, and all other required documents, to HCaloir@lisc.org, and mail her a hard copy of this Grant Agreement only (no hard copies are required of the other documents) to Helene Caloir, LISC, 501 Seventh Avenue, 7th Floor, New York, NY 10018. Please contact Ms. Caloir if you have any questions about these disbursement conditions.

Please note - this Grant Agreement must be signed and returned to LISC on or before April 1, 2021. If such deadline passes, LISC reserves the right to withdraw its commitment to make the Grant and reallocate the Grant proceeds.

Please also note Grantee must submit its final Disbursement Request on or before November 1, 2021 and its request for the retained fee of \$5,000 on or before March 31, 2022. Any Grant proceeds not requested on or before such date will be de-obligated and re-granted unless LISC consents, in writing, to an extension of the deadline.

[Signatures appear on next page.]

DRAFT

LOCAL INITIATIVES SUPPORT CORPORATION

Signature: _____

Name: _____

Title: _____

Date: _____, 2021

GRANT AGREEMENT CONDITIONS ACCEPTED AND AGREED TO:

TOWN OF KENT

Authorized Signature: _____

Name: _____

Title: _____

Date: _____, 2021

Attachment A**DISBURSEMENT SCHEDULE AND AMOUNTS**

<u>Disbursement</u>	<u>Disbursement Amount</u>
Disbursement One	\$27,900
Disbursement Two	\$17,100
Retained Fee	\$5,000

Note: The Retained Fee of \$5,000 will be retained from the final disbursement – the 2nd disbursement if it's a 2 disbursement grant, the 3rd disbursement if it is a 3 disbursement grant and the 4th disbursement if it is a 4 disbursement grant and disbursed upon receipt of the Final Report satisfactory to LISC.

Also Note: If any Disbursement is not fully expended during its six month disbursement period LISC, in its sole discretion, can hold back an equivalent amount to the unexpended funds from the Subsequent Disbursement.

Attachment B

APPROVED GRANT BUDGET

[Excel Spreadsheet of Final Approved Grant Budget to be attached here.]

DRAFT

Attachment C

APPROVED WORK PLAN

[Excel Spreadsheet of Final Approved Work Plan to be attached here.]

DRAFT

Attachment D

DUE DILIGENCE CHECKLIST

- Work Plan Excel Spreadsheet (previously approved by LISC)
- Budget Excel spreadsheet (previously approved by LISC)
- Municipal ordinance/resolution approving the grant, if available, or letter from municipal chief executive evidencing grant approval.

Attachment E

ACH AUTHORIZATION / WIRE TRANSFER INSTRUCTIONS

LISC PA # [REDACTED]

This [ACH Authorization/Wire Transfer Instructions] Form is being furnished to Local Initiatives Support Corporation ("LISC") pursuant to the Grant Agreement (the "Grant Agreement"), entered into between the Town of Kent ("Grantee"), and LISC, pursuant to which LISC has awarded to Grantee a grant (the "Grant") in the amount of \$50,000 to be disbursed to Grantee upon the satisfaction of certain conditions. All terms not otherwise defined here will have the meaning set forth in the Grant Agreement.

ACH/WIRE INSTRUCTIONS

Bank Name:

ABA No.:

Acct. No.:

Acct. Name:

Memo:

These are _____ [wire/ACH] instructions.

TOWN OF KENT

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

Name of person authorized to verify wire instructions by phone: _____

Title: _____

Phone #: _____

Attachment F

LISC PA # [REDACTED]

DISBURSEMENT REQUEST FORM

This Disbursement Request Form is being furnished to Local Initiatives Support Corporation ("LISC") pursuant to the Grant Agreement, dated as of April 1, 2021, ("Grant Agreement") between the undersigned and LISC, pursuant to which LISC has awarded to Grantee a Grant of \$50,000 to be disbursed directly to the Grantee upon the satisfaction of certain conditions. All terms not otherwise defined here will have the meaning set forth in the Grant Agreement.

Grantee hereby certifies that:

- (a) It requests a Disbursement of the Grant in the amount of \$_____.
- (b) For any Disbursement other than the first Disbursement, prior disbursements have been expended in accordance with the Grant Budget, as set forth in the attached Periodic Report.
- (c) It has satisfied all conditions to receiving such Disbursement.
- (d) For any consultants or contractors to be paid for by this Disbursement, Grantee has confirmed that each consultant or contractor is not: (i) listed in any sanctions-related list of designated persons maintained by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury, the U.S. Department of State or any other applicable authority ("Sanctions Authority"); or (ii) operating, organized or resident in a country, region or territory which is itself the subject or target of any Sanctions ("Sanctioned Country").

For each consultant or contractor to be paid from this Disbursement, the Grantee must search OFAC's online sanctions list at <https://sanctionssearch.ofac.treas.gov/>, then print and send a PDF of the search results to LISC. Also retain a copy for your own files.

TOWN OF KENT

By: _____

Name:

Title:

Date:

Attachment G

PERIODIC REPORTING FORM

[LISC will provide the Grant Budget Reporting Form and the Work Plan Reporting Form based on Grantee's Approved Grant Budget and Approved Work Plan.]

DRAFT

Attachment H

**GRANT TERMS AND CONDITIONS, REPRESENTATIONS AND
INDEMNIFICATION**

1. Funds Not Disbursed by the Grant Expiration Date: All requests for reimbursement of expended funds pursuant to the Grant Agreement (in furtherance of the Purpose(s) of the Grant) must be received by LISC no later than 60 days after the Grant Expiration Date. Any Grant funds not expended by the Grantee by the Grant Expiration Date shall be automatically reprogrammed by LISC, and shall no longer be available for disbursement to the Grantee; provided, however, that if the Grant Expiration Date is extended, then the funds shall remain available for disbursement until the new Grant Expiration Date.

2. Funds Not Disbursed in a Timely Way: Any funds not drawn down in a timely fashion during the term of the Grant may be deobligated by LISC in its sole discretion after notice to the Grantee. Such deobligation shall be effective as to any Grant proceeds not expended by the Grantee prior to the date of receipt of such notice.

3. No Disbursement if Non-Compliance. LISC shall not make any disbursement of the Grant unless on the proposed date of disbursement the Grantee is in full compliance with all of the terms set forth in the Grant Agreement and all attachments thereto, including but not limited to all reporting requirements. In addition, LISC shall not make any disbursement of the Grant if it will (i) violate any provision of law, regulation or administrative ruling to which LISC is subject, (ii) subject LISC to any tax, penalty, or fine, or (iii) not further the charitable purposes of LISC.

4. No Disbursement if Material Adverse Change Has Occurred: LISC shall not make any disbursement of the Grant if, at the time of the proposed disbursement, there has been a material adverse change in the financial or other condition of the Grantee, including, but not limited to, any adverse change in the Grantee's key personnel carrying out the Work Plan (with LISC determining, in its reasonable discretion, what constitutes a material adverse change in key personnel).

5. Restrictions on Use of the Grant: Under Sections 501 and 4945 of the Internal Revenue Code (the "Code"), the Grant may not be used to carry on propaganda, to attempt to influence legislation, or to participate in, intervene in, or attempt to influence the outcome of, political campaigns or elections. Additionally, under the applicable provisions of the Code, LISC funds may only be used in furtherance of LISC's charitable purposes. By countersigning this Agreement and returning it to LISC, the Grantee agrees to (i) not use the Grant for purposes prohibited by the preceding two sentences, (ii) use the Grant in furtherance of the Grantee's charitable purposes (as set forth in its Articles of Incorporation and Application For Recognition of Exemption to the IRS), and (iii) promptly reimburse LISC any Grant amounts not used to further charitable purposes.

6. Compliance with Laws.: Grantee shall not discriminate in its activities and operations in connection with the Grant Agreement on the basis of age, race, creed, ethnicity, color, religion,

sex, sexual orientation, national origin, disability, marital status or any other basis that is prohibited by the United States federal, state, or local law or regulation. Grantee expressly agrees not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 et seq., or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 et seq., or any regulation promulgated thereto.

Grantee shall require any third party it hires with Grant Proceeds to comply with the obligations set forth in this section, including by providing their express agreement not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 et seq., or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 et seq., or any regulation promulgated thereto.

7. Municipality: The Grantee is a municipality in good standing in the State of New York.

8. Publicity: The Grantee agrees that LISC may include information regarding the Grant and Work Plan in its periodic public reports. The Grantee shall also make best efforts to provide LISC with reasonable advance notice of any events promoting the Project and provide for an appropriate role for LISC at any such event. With LISC's advance consent, the Grantee shall refer to LISC in any press releases, or during any press conferences or other events announcing the work performed with Grant proceeds. A copy of all issued press releases shall be promptly sent to such contact person. In addition, the Grantee agrees to acknowledge receipt of this grant from LISC in relevant and appropriate publications.

9. Assignment or Delegation and Subcontracting: The Grant Agreement and the rights and duties under the Grant Agreement must not be assigned, delegated or subcontracted by the Grantee without the prior written consent of LISC, and any purported assignment, delegation or subcontracting of the Grant Agreement without said consent of LISC shall be void. In addition, LISC reserves the right to approve any professionals or consultants hired with funds under this Grant. Notwithstanding the above requirements, all specifically referenced sub-grantees, professionals and consultants included in the approved Work Plan or Approved Grant Budget are deemed approved by LISC.

10. No Third Party Rights. Nothing in the Grant Agreement or any attachment thereto shall create an independent right of action by the Grantee against any contractor of LISC. The parties acknowledge that no contractual relationship shall be deemed to exist between the Grantee, or any third-parties Grantee hires using Grant proceeds, and LISC.

11. Supporting Documentation. If Grantee uses third parties to carry out any of the activities using Grant Proceeds, it shall not make any disbursements of Grant Proceeds to such third parties for work performed by such parties without a duly executed contract, invoices, receipts or other appropriate supporting documentation evidencing such party's work and services ("Supporting Documentation"), provided, however, that if a disbursement is for work yet to be performed, a detailed budget for such work and such documents as may be available at the time the disbursement is requested shall satisfy this requirement, provided that the signed

documents and other supporting documents shall be provided once the funds are spent by such third parties, as part of Grantees normal reporting.

12. Representations and Warranties.

Grantee represents and warrants that:

- a. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation;
- b. It has full power, authority and legal right to execute and deliver this Grant Agreement and to perform its obligations hereunder;
- c. The making and performance by it of this Grant Agreement has been duly authorized by all necessary action and will not violate any provisions of applicable law or regulation, any provision of its charter or by-laws (or comparable, constituent documents) or any order of any court or regulatory body and will not result in the breach of, or constitute a default or require any consent under, any agreement, instrument or document to which it is a party or by which it or any of its property may be bound or affected;
- d. All authorizations, consents, approvals and licenses of, and filings and registrations with, any governmental authority required under applicable law or regulations for it to make and perform this Grant Agreement have been obtained and are in full force and effect; and
- e. This Grant Agreement constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms.
- f. Grantee hereby agrees that it will not use any Grant proceeds for property acquisition, renovation, rehabilitation or demolition activities.

The foregoing representations and warranties shall remain in full force as of the date hereinabove and on each date that a disbursement of Grant funds is made to Grantee or its designee pursuant to this Grant Agreement.

13. Change in Circumstances / Material Events:

- A. If any specific event or conjunction of circumstances threatens the successful completion of the Approved Work Plan, in whole or in substantial part, including where relevant, timely completion of the activities/deliverables (as described in the Approved Grant Budget, the "Deliverables") or other requirements, the Grantee agrees to submit to LISC within ten (10) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

- B. The Grantee shall immediately notify Grantor in writing after Grantee learns of any material event directly related to the Program that involves the staff, volunteers, directors or officers of the Grantee or third party funded with Grant Proceeds, including: death or serious injury; an arrest or possible criminal activity or any other circumstances directly related to the activity funded with Subgrant or Subcontract proceeds that could impact the successful completion of the project. The Grantee shall, in addition, promptly report to LISC the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Grantee, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Grant. Such report shall be made within ten (10) business days following the Grantee becoming aware of such events, investigation, or audit.

14. Indemnification

The Grantee, intending to be legally bound, hereby expressly agrees and covenants to hold harmless and indemnify LISC its directors, officers, agents and employees from and against any and all third party costs, losses, actions, liability, demands, claims, damages and expenses of any nature or any kind (including, but not limited to, indebtedness, penalties, fines, LISC's costs and reasonable legal fees) incurred in connection with this Grant ("Indemnified Losses") or that arise out of any act or omission of the Grantee, or third parties hired with Grant proceeds, or of any of their respective employees or agents except to the extent any such costs, liability, demands, claims, damages or expenses result from Grantor's material misrepresentation, gross negligence or willful misconduct. The Grantee shall be solely responsible and answerable in damages for any and all accidents or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Grantee, any third party hired with Grant proceeds, pursuant to this Grant Agreement. Grantee's obligations under this section shall survive termination of the Grant Agreement.

The Grantee is an independent contractor and may neither hold itself out nor claim to be an officer, employee or agent of LISC, nor make any claim, demand or application to or for any right based upon any different status.

15. Release

Neither LISC nor any of its affiliates, officers, directors, employees, consultants or advisors (the "LISC Parties") shall be liable to Grantee, third parties hired with Grant proceeds, their respective officers, directors, employees, contractors, consultants, tenants or advisors (the "Grantee Parties") for any liability of any kind (including, without limitation, any liability under tort, negligence, strict liability, or other legal or equitable theory, for loss of profits, indirect, exemplary, special, incidental, or consequential damages, punitive losses, lost revenues, or cost of procurement of substitute programs or services) relating to or arising out of this Agreement, nor shall LISC Parties be required to indemnify or insure the Grantee Parties against any such liability. Grantee is solely responsible for its costs, day-to-day operations, including, but not limited to, the means, methods and schedules by which it carries out the Program, it being understood that Grantee's expertise with respect to the Program is

a key factor by which Grantee was awarded the Grant. Notwithstanding the foregoing, in the event LISC misappropriates Grant proceeds hereunder or commits fraud with respect to the handling of Grant funds in its custody, LISC's monetary liability to Grantee hereunder shall be limited to the amount that is determined to have been so misappropriated.

DRAFT