

KENTON CITY COUNCIL

6<sup>th</sup> REGULAR SESSION

March 25, 2024  
7:00 PM  
Council Chambers

AGENDA

ROLL CALL

PRAYER

PLEDGE OF ALLEGIANCE

APPROVAL OF PRIOR MINUTES

CITIZENS REQUESTING TIME TO SPEAK

COMMUNICATIONS

PETITIONS

ADMINISTRATION REPORTS:

- Police Chief
- Fire Chief\*
- Parks and Recreation Director
- Economic Development
- Income Tax
- Auditor
- Treasurer
- Law Director
- Safety Service Director
- Mayor

\* Denotes written report included in packet

REPORTS & SCHEDULING OF STANDING COMMITTEES AND/OR SPECIAL COMMITTEES:

- Finance
  - Management, Organization and Personnel
  - Public Utilities
  - Streets, Alleys, and Sidewalks
  - Legislation, Codes and Regulations
- April 10<sup>th</sup> 3:30pm

REPORTS FROM COUNCIL MEMBERS:

- Regional Planning
- Parks & Rec Board
- Grove Cemetery Board
- Shade Tree Commission
- BKP Ambulance District Board

OLD BUSINESS:

NEW BUSINESS:

ORDINANCES / RESOLUTIONS:

1<sup>ST</sup> READING:

- **\*ORDINANCE NO. 24-005, TITLE ONLY;** AN ORDINANCE PROVIDING FOR ADDITIONAL APPROPRIATIONS FOR THE YEAR 2024, FOR THE CITY OF KENTON, OHIO, AND DECLARING AN EMERGENCY.
- **ORDINANCE NO. 24-006, TITLE ONLY;** AN ORDINANCE AMENDING AND RESTATING KENTON CODIFIED ORDINANCE CHAPTER 1439 RELATING TO FLOOD DAMAGE REDUCTION, AND DECLARING AN EMERGENCY.

2<sup>nd</sup> READING:

- **RESOLUTION NO. 005-24, TITLE ONLY;** A RESOLUTION AUTHORIZING THE CITY OF KENTON TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT (WSRLA) AGREEMENT ON BEHALF OF THE CITY OF KENTON FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF N. DETROIT STREET WATERLINE; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN, AND DECLARING AN EMERGENCY.
- **RESOLUTION NO. 006-24, TITLE ONLY;** A RESOLUTION AUTHORIZING THE CITY OF KENTON TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT (WSRLA) AGREEMENT ON BEHALF OF THE CITY OF KENTON FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF DOWNTOWN WATERLINE REPLACEMENT PHASE 2B; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN, AND DECLARING AN EMERGENCY.

3<sup>rd</sup> READING:

None.

OTHER MATTERS

COMMENTS FROM THE PUBLIC

COMMENTS FROM THE NEWS MEDIA

COMMENTS FROM COUNCIL MEMBERS AND ADMINISTRATION

ADJOURN

**NEXT REGULAR MEETING-- April 9, 2024 6PM**

# RECORD OF PROCEEDINGS

Minutes of

KENTON CITY COUNCIL

Meeting

Lilienthal Southeastern, Inc., 1-800-837-1904, Re-Order 66665K

Held

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## **5<sup>th</sup> REGULAR SESSION:**

Kenton City Council met in their 5<sup>th</sup> Regular Session on March 11, 2024, at 7:00 PM, in Council Chambers. Present: President, Joel Althausen, Sue Fox Buroker, David Beazley, Steve Walter, Chad Miller, Pegg Wren, Anda Tudor, Robin Jones, Law Director John Schwemer, Mayor Lynn Webb, Safety Service Director Cindy Murray.

Prayer given by Mr. Althausen:

Dear Lord, we come to You tonight, asking for guidance, at times we feel lost and overwhelmed and need Your help in finding our way. Please open our eyes and hearts to the direction You want us to take. Help us make wise decisions that will lead to safety and prosperity for the City of Kenton. Give us the strength and courage to persevere when times are difficult. Lead us with Your truth and love. Thank you for Your guidance and protection. AMEN.

Pledge of Allegiance recited.

## **MINUTES:**

Althausen: Again, welcome everyone. We've got a nice calming sound in the background for you all. Hope you're able to find your way here and found some place to park because we have closed off all of the side streets in Kenton, if you didn't know that. Anyway, enough of that. I won't do it anymore. Approval of the prior minutes, you had minutes in your packet for a meeting from two weeks ago. Are there any additions or corrections to those minutes as they were printed? Hearing none then, let's mark them approved as submitted.

## **CITIZENS REQUESTING TIME TO SPEAK:**

None.

## **COMMUNICATIONS:**

Althausen: The Hardin County Chamber and Business Alliance had their report for March in your packet. If you have any questions on that or want to share some comments about it with Holli down at the office, I'm sure that she would love to discuss anything you need to talk about with her. Appreciate her reports, and her cooperation and that office's cooperation.

## **PETITIONS:**

None.

## **ADMINISTRATION REPORTS:**

Althausen: I'm going to change the order here just a little bit and our Mayor has a special proclamation.

Webb: I'm just going to do it from here. This is the American Red Cross Month. So, we'd like to thank Daryl Flowers here as our representative to come here and I have the proclamation for the Red Cross. During American Red Cross Month in March, we recognize the compassion of people in Hardin County and reaffirm our commitment to care for one another in times of crisis. This generous spirit is woven into the fabric of our community and advances the humanitarian legacy of American Red Cross founder Clara Barton — one of the most honored women in our country's history — who nobly dedicated herself to alleviating suffering. Today, kindhearted individuals in our community exemplify Barton's commitment as they step up through the Miami Valley to provide a beacon of hope for our neighbors in need. Through their voluntary and selfless contributions, they make a lifesaving difference in people's darkest hours — whether it's delivering shelter, food and comfort during disasters; providing critical blood donations for hospital patients; supporting military families, veterans and caregivers through the unique challenges of service; saving lives with first aid, CPR and other skills; or delivering aid and reconnecting loved ones separated by global crises. We hereby recognize this month of March in honor of all those who lead with their hearts to serve people in need, and we ask everyone to join in this commitment to strengthen our community. NOW, THEREFORE, I, Lynn Webb, Mayor, by virtue of the authority vested in me by the laws of Kenton, Ohio and, do hereby proclaim March 2024 as Red Cross Month. I encourage all citizens of Hardin County to reach out and support its humanitarian mission, and I'd like to present this to Daryl.

Daryl Flowers: Well, most of our stuff that we do in Hardin County is for fire victims. Anyone that has a fire, the Fire Chief usually gives our national Red Cross a call and then they call out the volunteers. Most of the time that's what our duties are in Hardin County is to help those that have had

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fires. I think in my fifteen years we've just set up a shelter once and when people come in and see cots sitting around and think, no thanks, but that's our purpose is if there is a bad thing happens that we would be ready to do, set up a shelter for the bad times.

Althausen: Out of curiosity, was that the ice storm, when you did that?

Flowers: No, it wasn't the ice storm. It was something else, I think it was partial flooding that one year that we had so much water it was kind of a flooding going on, and there was a few people misplaced by the houses getting under water. I think that was the time that they set up a few cots and if people wanted to come in. They didn't really like the idea of sleeping on cots in a row but it's better than being out in the weather. We don't tend to be a five-star hotel. Thank you. Any other questions?

Althausen: Thank you Daryl. Appreciate everything you and the Red Cross do, and then one more quick, well not necessarily quick but I do want to have Cindy come up and, or she can do it right from there, has an announcement to make.

Murray: I just wanted to introduce Tim Castle. Today was Tim's first day as our new Public Works Superintendent. So, I think they're probably going to want you to step up and tell a little bit about yourself.

Tim Castle: I guess first of all just to say thank you for allowing me to take part in the works as a public worker for Kenton, and also now for the opportunity to step up and work with all of you on your team. I took the prayer very personal, as you said those who are lost and finding their way, that's the way I felt today when you step from the outside to that inner ring of fire that's happening all over. It's an eye opener. So, got a lot of groundwork to do but looking forward to working with all of you.

Althausen: We're excited to have Tim, and we're glad you're staying with us and glad you're moving up. Alright, now we'll get back, and I will come back to both of you at the end. So now, Chief Musser?

Musser: I apologize I didn't get this in your packets but it you had a moment to look it over, try to make it a point to recognize our officer, and I wanted to share this letter that Brad Bailey sent over to me. I don't know if you know Brad but he doesn't write a lot of letter, you know what I mean? So, this is nice. Officer Shemeth, he was involved in a situation with Anthony Brown, who we have a lot of attention on lately, and it turned into a fight and ultimately an assault on a police officer, and Shemeth handled himself incredibly well, no one was killed, or seriously hurt and they secured the conviction on Mr. Brown, who we have a lot of things pending for the moment. So, that was good and just to, he didn't do anything he's not expected to. You're expected to know your case, you're expected to testify well, however the suppression hearing and the subsequent jury trial was brutal. So, Shemeth is on 3<sup>rd</sup> shift. We had the entirety of, I'd say almost the entire 3<sup>rd</sup> shift in here minus one, and you know so they work. Shemeth went home at 5am, slept for two hours, came back, ten-hour jury trail, did really good on cross examination. Went home. Slept for a few hours. Came back. Worked 3<sup>rd</sup> shift. So, I just wanted to make it a point to point that out. We've spent a lot of time in trail in the last year. Especially officers that are very young and don't have a lot of trail experience, as well as Kemmere who has a ton. You know, day, weeks actually, four murder trails, and a number of other felony cases, sex cases, and they have all turned out in our favor. We haven't lost one. So, I just want to share that with everybody. Aside from that, you know we're working the traffic out here with construction, doing what we can. I think today was a little better, how we decided to tackle it, and we are preparing for this eclipse. We have had meeting number five this week, I think, will be coming up. So, don't anybody freak out about that. That's all I've got.

Beazley: Thanks Chief.

Althausen: Thanks Chief. Looks like maybe we don't anything for Fire tonight.

Murray: Yeah, he's not here.

Althausen: Okay, so we'll move on. Do you want to talk about Parks & Rec, either of you or Cindy or Lynn, or even Robin?

Jones: We have a meeting tomorrow at 6.

Webb: Wednesday.

Althausen: And then anything regarding Economic Development that you want to talk about now or you can talk about...

Webb: I'll just do it with mine.

Althausen: Okay. Income Tax, you do see a report in there for the first, actually no, that is, yeah...

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Murray: It's just the month of January.

Althausen: Just January. Any questions on that? Okay, Auditor, don't think we have a report, Treasurer. Treasurer, no report. Law Director, John, anything you want to talk about?

Schwemer: No.

Althausen: Okay, back to you Cindy.

Murray: Okay, tomorrow we have a visit from the EPA. They're coming just to look at all of the projects that we have going on and making sure that we are good stewards of their money. So, we're well prepared, and I think it should be a good meeting. So, and it's that time of year again, it's time to announce that we will have a rate increase on our water rate, our utility rates. The sewer portion does not go up. The water bill goes up, the minimum bill will go up \$5.98. This is the big jump year. This is per the rate study that was done by RCAP, and it's in conjunction with this downtown project. When we did the rate study the big project that we gave them. So, this will help pay for this downtown project. I don't know if you want to add anything on that, John?

Schwemer: This was when we did the rate study we passed the ordinance that went into effect that we have rate increases until what 2026 or 25?

Murray: 25

Schwemer: And then it goes 3% after that. So, this jump has been planned, since we did, if you look back, most of the people were not on the council when we passed this but it was through council. Now, we can always change this if we think this is getting out of line, but the thought was this project would be coming on. We need to be able to pay for that. That's why there is the jump. So, it shouldn't be a surprise to anybody, but you know it's been a couple years. So again, the committee looked at that and wanted to, they think it's appropriate, and again we can always revisit this if we think one account is getting out of line but we need to keep in mind we're going to have a lot of expense coming up that we need to keep ahead of, as well as other projects, some large projects that are down the road just with our water system in general. So, we have to be looking outside of just the downtown area. We have to look into the future or we won't have the money to continue the projects.

Althausen: I want to follow up with John, not only that, it's also when this was done we were not in the economic situation we are now, as a whole and it costs money to run a water department. It's not just, there's electricity, there's all types of overhead that all that is going up as well. So, when this was set we were in no where near the inflationary pressures that we are under now.

Murray: The other thing I wanted to announce was, and I don't know if I did this last meeting but starting April 1<sup>st</sup> the Utility Office hours and the Income Tax hours, we are going to reduce them down. They will be open from 9-1. That is to better utilize our people and utilize tax money, the water rates money, and things like that. So, I just wanted to remind everybody about that. That's all I have.

Althausen: Okay, Lynn.

Webb: I'm going to touch a little bit about Economic Development. Probably the past two weeks we've gone pretty hard with the Chamber, and Holli and her team. We've had, we are chasing a Vibrant Community Grant, which is a million dollars, which it goes towards the downtown. Ottawa, Ohio just has received it and has utilized it. So, that's kind of one of our communities we are trying to mirror from, and they re-did an old hotel, a lower end brewery, offices second floor, third floor is an architect engineer offices. So, it's one of those, so Holli is like spearheading that with several stakeholders in the downtown area. We had a big meeting with Jobs Ohio with that and what the best part was the twelve stakeholders that were invited, every one of them showed up. So, that's huge for us. So, we're on the very first part, leg of this planning and you know in talks with Job Ohio, there's not any promise but they are very, very watching us and encouraging us all along the way. So, we're excited about that. Also, this past week we had Heritage Ohio here and for a Main Street Program and those are programs Van Wert has went through, Main Street, it's a whole downtown re-development. Delaware, when they did their whole thing, that's Heritage Ohio Main Street. Frances Jo was here last week and her team was here for two days. They did a tour of our downtown, assessment. So, we spent two days with them and had a lot of good feedback, a lot of participation, which you know that goes a long way. So that's another one and I do believe the Chamber is footing that \$5,000.00 bill. Today we met with Toledo Port Authority and Jobs Ohio with their small Business Development Center and all their grants and how they can help each and every one of these area and businesses, HVAC, LED electricity, windows, all of that stuff. It's from PACE and they do a lot of tremendous funding. So, people are very much on board, wanting to help get

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this downtown and there's a lot of great enthusiasm. Also, Wednesday night we were at Jobs Ohio in Lima for their annual meeting, and I can assure you Hardin County and Kenton Ohio were one of the main focuses there. We were overjoyed and overwhelmed by what they had to say, and what they have heard. So, we've on the right track and I can only say thank you to all of you who's continued to believe in what's happening. It's your dream and we just want to be a part of the momentum. So, I thank you with that, I have, Mike Boyle stepped down from Tree Commission and the Zoning Board. So, then I appointed, or sent letter to two people if they would fill his spot. Sherri Benson, she lives up on Cherry Street, she will be on the zoning board, and then Michelle Laubis would like to do the Tree Commission with Sue and the rest of the guys. So, those are who I would like to have confirmed.

**Motion by Mr. Beazley and second by Mrs. Buroker to approve the Mayor's appointments as stated.**

Althausen: Any discussion? And just to clarify, there are, there's a handful, and I think on the sheet we handed out at the beginning of the year, at the bottom it tells per the codifieds who we approve, mayor appoints, we approve. These are two of those positions that we do. So, any discussion?

**(Roll call vote, 7 ayes, motion carried.)**

## REPORTS & SCHEDULING OF STANDING COMMITTEES AND/OR SPECIAL COMMITTEES:

Althausen: Finance has a written report.

Beazley: Nothing to add other than the efficiency of our administration, filled the position that we funded already. He sits in our midst.

Althausen: Any questions to David or the Finance Committee? Okay, I'm going to just say MOP, Utilities, Streets, Legislation, is there a report or comment on and of it? Management, MOP, any kind of report?

Murray: I have utilities. So, Utilities meeting for this month and the following in April we will be doing an RCAP training course that is now a requirement from the EPA to take. So, we'll just use our meeting time to watch these videos for the month of March and the Month of April for the Utilities meeting. I'll bring popcorn.

Buroker: Same time?

Murray: Same time.

Beazley: Can anyone attend that training?

Murray: You sure can. I expect the press to be there.

(laughter)

Althausen: Anything Streets? I'm trying to remember. They met right?

Murray: We did meet.

Althausen: Anything to chat about, or not? And if not, that's fine. What about Legislation?

Murray: We're working on signage.

Althausen: We have plenty of things going on right now. Okay, I'm going to pause and go back to administrative reports and see if Fire has anything they want to report?

Captain Wilson: No, our new guy starts tomorrow. Our new firefighter starts tomorrow. He was just hired they filled the spot left by Tyler Pitts. Other than that, no.

Althausen: Okay, great. Council members, I think most of these have not met but Regional Planning?

Beazley: Region Planning did meet this past Thursday, just updates on new projects on the horizon.

Althausen: Parks & Rec meets Wednesday. Grove Cemetery Board?

Walter: We met March 5<sup>th</sup>. They're still going through the process of identifying all the remains in the mausoleum. They're expecting a new lawn mower this week or next week, and they're trading the old one in.

Db You're talking machinery, not personnel?

Walter: Yes, machinery.

Althausen: Tree Commission?

Buroker: We meet Thursday the 14<sup>th</sup> at one.

Althausen: BKP will mee next week, and again just to reiterate, they are on the ballot. So, if you have questions, I can answer them for you or find out.

## OLD BUSINESS:



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Beazley: Mr. President, it has come to my attention that our next meeting occurs on the auspicious date of the darkening of Kenton, Ohio, April 8, 2024. Out of an abundance of caution, and because of the recommendations of safety to avoid traffic and moving about unnecessarily, I would recommend that we would consider moving our meeting to the following evening to avoid any of the congestion and problems that might occur with April 8<sup>th</sup> to not add to the problem.

Althausen: How would that work for everyone else? It'd be a Tuesday, 7 o'clock.

Beazley: April 9<sup>th</sup>.

Althausen: April 9<sup>th</sup>.

Althausen: Would anyone be opposite to 6?

**Motion by Mr. Beazley and second by Mrs. Wren that the next council meeting shall be held Tuesday, April 9, at 6pm.**

Althausen: Any discussion?

(Roll call vote, 7 ayes, motion carried.)

## NEW BUSINESS:

None.

## ORDINANCES /RESOLUTIONS:

### 1<sup>ST</sup> READING

- **RESOLUTION NO. 004-24, TITLE ONLY; A RESOLUTION AUTHORIZING KENTON CITY SCHOOLS TO PREPARE AND EXECUTE ON BEHALF OF THE CITY OF KENTON, AN APPLICATION FOR SAFE ROUTES TO SCHOOL FUNDS THROUGH THE STATE OF OHIO DEPARTMENT OF TRANSPORTATION, AND DECLARING AN EMERGENCY.**

Althausen: And Cindy are you going to explain the differences?

Murray: Yes I will. So..

Beazley: This replaces a faulty resolution?

Murray: Yes it does. So, it is not unlimited funding. So, it is capped I think at \$500,000.00. So, we actually got the correct price that the school is going after. We actually changed it to where it's stating that the school will be responsible for the additional amount, and there was one more thing that we changed...and the school is responsible for the maintenance.

Beazley: Perfect.

Althausen: So, just a quick clarification, John, by passing this does that effectively...

Beazley: Supersede?

Althausen: Supersede the other one?

Schwemer: It does, yes.

**Motion by Mr. Beazley and second by Mr. Walters that the rules requiring legislation of a permanent or general nature to be read on three separate days, be suspended. Roll call vote, 7 ayes, motion carried.**

(Roll call vote, 7 ayes, motion carried.)

**Motion by Mr. Beazley and second by Ms. Jones to adopt Resolution No. 004-24.**

Althausen: Any discussion?

(Roll call vote, 7 ayes, motion carried.)

- **RESOLUTION NO. 005-24, TITLE ONLY; A RESOLUTION AUTHORIZING THE CITY OF KENTON TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT (WSRLA) AGREEMENT ON BEHALF OF THE CITY OF KENTON FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF N. DETROIT STREET WATERLINE; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN, AND DECLARING AN EMERGENCY.**

Althausen: We have some time here. So, that's not an issue. I don't know, Cindy if you want to explain it a little bit?

Murray: Yeah, so we are trying to be ahead of the game versus behind the game like we usually are. So, this is for the North Detroit Street waterline. We just submitted the paperwork. So, you have time.

Beazley: This is the, from North Carroll to Eliza?

Murray: Yes, this would be the water line up that street. It is estimated to be \$758,000.00 and we're hoping we get some, maybe principal forgiveness out of it, that's what we're applying for. We'll see what we get.

Beazley: And this is not time sensitive?

Althausen: If there are no objections, we'll read that again in two weeks.

Beazley: And one day.

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Murray: Same thing. So, this is 2B which is Franklin and Columbus and they went ahead and they the outside ring in. The outside perimeter. So, same thing we just submitted it and I just wanted to make you aware of than. The estimated construction cost for that is \$5,839,599.00 of which we do have a million dollars from the Army Corp for water and a million dollars from the Army Corp for the sewer portion of that project.

Beazley: Wonderful

Althaus: So, again we have some time, and if there are no objections we'll read that again for a second read in two weeks.

Murray: And we will be discussing both those projects with the EPA tomorrow.

## 2<sup>nd</sup> READING

None.

## 3<sup>rd</sup> READING

None.

## OTHER MATTERS

None.

## COMMENTS FROM THE PUBLIC:

None.

## COMMENTS FROM THE NEWS MEDIA:

None.

## COMMENTS FROM COUNCIL MEMBERS AND ADMINISTRATION:

Althaus: Chief Musser, any follow up?

Musser: Nothing else, thank you.

Althaus: Tim? Mr. Wilson? Sue?

Beazley: Mr. President, we take a moment every now and again to recognize the good work of our employees but sometimes we fail to recognize their supervisor. So Chief, job well done in training your officers and having them prepared to do the things that we have asked them to do in all these circumstances. Your leadership shows in their performance. Thank you.

Althaus: Steve?

Wren: I echo what Dave said, and I'm glad to see that programs are coming back around, the main street program, we looked at that a long time ago when I was at the Chamber. We couldn't afford it then or there was a lot of benefits to the downtown, business owners, and stuff with that program. So, kudos and good job.

Althaus: Anda?

Tudor: Nothing other than what she said. I agree with her.

Althaus: Robin?

Jones: Thanks, Tim, for stepping up and investing in our city and congratulations and tell Officer Shemeth great job, Chief Musser, thank you. We have a great police force here. Chief Musser does a great job. Same with Fire, thank you. Is our new fire personnel, is he from local or out of...

Wilson: Just inside Union County.

Althaus: Cindy?

Murray: Nothing.

Althaus: Lynn?

Webb: Once again, just like Dave says, our employees here are phenomenal, and I can never say enough about Cindy Murray because the woman works 24/7 eight days a week because you know, God made another day for her. But, on the other one is Emma is doing a phenomenal job on communication on our project. That goes a long way. So, with that being said on information, please Council member, public, we have the picture up in the hallway. I'll try to get a roundabout picture up, but anybody who wants any kind of information or question or want to share their ideas again or want to know the why's.



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If I'm not here, make a time and we'll try to get together to share the information that we have and the timeframe that we've been looking into this. I'm not shy. If you can't be here til two o'clock in the morning, I certainly can come in. So, that's to the public. That's to everyone. So, that's the best form of knowledge is to communicate it and you know we don't always agree but sometimes we don't know what we don't know. That's all I have Joel, Mr. President.

Althausen: Thank you. I also would echo those comments to Chief. Your department is a totally different, more dynamic, more outgoing, just since you have taken over. It's a completely different, not that I dealt with them every day, I did not, but the difference is night and day and we're blessed and I wished the folks, a lot of our folks do know it, but if you do not, and you live in Kenton, we have an outstanding Police Force. We have an outstanding Fire Department. Our Public Works folks try to with little, both people and time and equipment and they get it done. So, and then I don't know if you've ever come up here lately? There's some really good synergy going on up here and a lot of it is spearheaded by this girl right here beside me. So, we have good things going on but we need it because we have an awful lot of projects. I did think, forget to mention, because I don't think that this went to everyone but I believe I received a letter here, communication, it was actually addressed like I was a local resident but it was to me at this address, and it's a copy of the letter that Kylie Schnipke, the project manager for the 31/68 project. I think this is the same letter that was posted. If anyone wants to see it, in fact I may scan it and send it all to you.

Clerk: It's on the website.

Althausen: It's the one on the website. It is the same one? Read through it, and I would highlight just one item. We can't answer everything out there. I've made some attempts at trying to answer people on social media, and finally stopped because I was frustrated, but I think council needs to be very aware and very open to the fact that all this did was announce that they had pegged, targeted a 2.5-million-dollar amount of money, right. Isn't that the...no, it hasn't even been in front of Council yet. There is no budget approved. There's no appropriation been completed, and that isn't to hint that you wouldn't but it's still...yes, ODOT is moving for, at for them, a extremely fast pace but we're a long way away from breaking ground anywhere. So, there's a lot of room for you to answer questions, and for folk to ask you questions. That's all I would say, but yeah read the letter and there are, I think Kylie was very specific in some of the things she wrote.

Murray: Joel, can I expand on that particular project? So, we did post on, you have to do things ODOT's way since it's their money. So, you had to, we had to post on their website for people to apply to be the engineering contractor. We received two and we have selected one. They are working up their bid on how much it would cost us to do the engineering, and then that goes through ODOT and they will give us the legislation which will most likely be at the next meeting, to go ahead and select that contractor.

Althausen: And final thing is this is much bigger than Kenton, and unfortunately, we became a bit of a focus. This is this whole 68/31, moving traffic from Northern Ohio to Central Ohio, moving traffic from Central Ohio to Northern Ohio. It isn't just a truck problem in Kenton. In fact, that is probably a minor part of it. I hate to say it, a minor part of the whole picture. The whole picture is Route 23 is not a viable option for them to turn into a solid four lane or six lane. So, now they're focused on 31/68 and it's reality. It's not going to solve everything, but doing nothing isn't going to solve a darn thing. So, enough of that. Anymore for the good of the order? Alright then, we're adjourned for two weeks.

Beazley: And a day.

Althausen: And a day. Well, no that's another two weeks.

Joel Althausen, President of Council

Emma Nelson, Clerk

# KENTON FIRE DEPT MONTHLY ACTIVITY SHEET FOR FEBRUARY 2024

Date

No. Personnel on Duty

Shift

FILED  
MAR 21 2024  
KENTON CITY CLERK

## Maintenance & Duties

Hours Cleaning Apparatus	59
Hours Apparatus Checkout	109
Hrs. Equipment Maintenance	0
Hours Air Pack Maint.	29
Hours Cleaning Quarters	104
Hours Building Maintenance	7
Hours Office Time	75
Hours Meeting Time	13
Hours Training	40
Hours Hose Maintenance	0
Hours Hydrant Maintenance	0
Number Hydrants Maintained	0
Hours Yard Maintenance	0
Miscellaneous Hours	19

## Services Provided

Public & Other Agency Assists	1
Hours On Assist Calls	0
Alarm And Sprinkler Tests	1
Hours on System Tests	9
Number Public Tours	1
Hours on Public Tours	4
Number Familiarization Tours	0
Hours Familiarization Tours	0
Number Inspections Made	15
Hours Spent- Inspections	65.1
Number Fire Investigations	0
Hours Spent-Investigations	0
Hours Public Education	0

## Personnel Information

Hours on Sick Leave	24
Employee Name	
Vacation Days	0
Employee Name	
Personal / Comp / Military Hrs	15
Employee Name	
Bonus Leave Days	0
Employee Name	
Holiday Leave Days	1
Employee Name	
Funeral Leave Days	0
Employee Name	

## Remarks

Property loss from incident involving semi into Conkle's Florist  
Inspections of KCS, foster homes and multiple businesses

## Alarm Information

Fire Alarms in City	16
Fire Alarms Buck Twp.	3
Fire Alarms Pleasant Twp.	3
Fire - Mutual Aid Given	7
Fire - Mutual Aid Received	0
EMS Runs in City	60
EMS Runs Buck Twp.	0
EMS Runs Pleasant Twp.	0
EMS - Mutual Aid Given	0
EMS - Mutual Aid Received	0
Pump Time Hrs./Min.	1.9
Aerial Ladder Time Hrs./Min.	0.0
Alarm Time Hrs./Min.	154.3
Water Usage	5400.0

## Property Values / Losses

Value City	\$	-
Loss City	\$	100,000.00
Value Buck Twp.	\$	-
Loss Buck Twp.	\$	-
Value Pleasant Twp.	\$	-
Loss Pleasant Twp.	\$	-
Total Value for Month	\$	-
Total Loss for Month	\$	100,000.00

## Other Information

No. Firefighter Casualties	1
No. Civilian Casualties	0
Fuel Used - Gallons	229.179
Oil Used - Quarts	2.5
Hours Overtime	71
Chiefs Hours	167.5
Shift Man Hours	696.4
Total Man Hours	934.9

Officer in Charge for Day

Revised 4/2021

## **EXPLANATION OF ORDINANCE NUMBER 24-005**

**Street Traffic Light Maintenance:** Another Semi driver has hit and damaged the traffic light at Franklin and Detroit. Brian Shook sent us a bill for a quick repair to get it out of the street as well as a quote to replace the damaged pole and the base. The total of the bill and the quote is \$20,575.00.

**Indigent Burial:** We have expended all of our funds in indigent burial line item. The funeral homes normally bill us \$850 + \$250 transportation when they have to travel to pick up the resident's body. Additional appropriations of \$3350 will give us room for three more plus the \$50 we are short right now?

**Municipal Court Building Maintenance:** When we created the budget trying to separate the city hall maintenance expenses with municipal court, I used a line item for city hall of maintenance of equipment. Emily also uses that line item, so I did not put near enough in that line. Adding this line item for just building maintenance will solve that problem.

**Police Lexipol:** We received the Lexipol invoice for police. We budgeted \$7000. The bill is for \$8326.71. I need additional appropriations of \$1327 for that line item.

**ORDINANCE NUMBER 24-005**

**AN ORDINANCE PROVIDING FOR ADDITIONAL APPROPRIATIONS  
FOR THE YEAR 2024, FOR THE CITY OF KENTON, OHIO,  
AND DECLARING AN EMERGENCY**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENTON, OHIO:

SECTION I. That the following amounts are hereby appropriated as additional for the year 2024.

**GENERAL FUND (101)**

Indigent Burial	3,350.00
Muni Court Building Maintenance	5,000.00
Lexipol	1,327.00

<b>TOTAL GENERAL FUND</b>	<b>\$</b>	<b>9,677.00</b>
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<b>TOTAL ADDITIONAL APPROPRIATIONS</b>	<b>\$</b>	<b>9,677.00</b>
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SECTION II. That this Ordinance shall be an emergency measure, the particular emergency being the need to balance accounts for the immediate and best protection of the public welfare, safety, and convenience, this Ordinance shall be in force and effect from and after its passage and approval by the Mayor.

Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Attest:

Approved:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

**ORDINANCE NO. 24-006**

**AN ORDINANCE AMENDING AND RESTATING KENTON  
CODIFIED ORDINANCE CHAPTER 1439 RELATING TO  
FLOOD DAMAGE REDUCTION, AND DECLARING AN  
EMERGENCY.**

WHEREAS, ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens; and

WHEREAS, the Council of the City of Kenton desires to enter into this ordinance to amend and restate Chapter 1439 of the Kenton Codified Ordinances with respect to flood damage reduction in the City of Kenton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kenton, Ohio:

SECTION I. That Chapter 1439 of the Kenton Codified Ordinances, pertaining to the flood damage reduction in the City of Kenton, be and is hereby amended and restated as set forth in Exhibit A attached hereto and incorporated herein by this reference.

SECTION II. This Ordinance shall be an emergency measure for the immediate and best protection of the public peace, health, safety, and welfare, the particular emergency being the need to modify the flood regulations in a timely manner as required by the Ohio Department of Natural Resources. Therefore, if passed by the requisite two-thirds of all members elected to Council, this Ordinance shall be in force and effect from and after its approval by the Mayor; otherwise, from and after the earliest period allowed by law.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk

Approved this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor



**EXHIBIT A**  
**CHAPTER 1439**  
**SPECIAL PURPOSE**  
**FLOOD DAMAGE REDUCTION**  
**City of Kenton, OHIO**

**1439.01: GENERAL PROVISIONS**

**1439.011 Findings of Fact**

The City of Kenton has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

**1439.012 Statement of Purpose**

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- H. Minimize the impact of development on adjacent properties within and near flood prone areas;
- I. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
- K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- L. Meet community participation requirements of the National Flood Insurance Program.

#### **1439.013 Methods of Reducing Flood Loss**

In order to accomplish its purposes, these regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

#### **1439.014 Lands to Which These Regulations Apply**

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Kenton as identified in Section 1439.015, including any additional areas of special flood hazard annexed by the City of Kenton.

#### **1439.015 Basis for Establishing the Areas of Special Flood Hazard**

For the purposes of these regulations, the following studies and/or maps are adopted:

- A. Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Hardin County, Ohio and Incorporated Areas, both effective July 3, 2024.
- B. Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- C. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Kenton as required by Section 1439.043 Subdivisions and Other New Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Kenton Municipal Building, 111 West Franklin Street, Kenton, Ohio 43326.

#### **1439.016 Abrogation and Greater Restrictions**

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these

regulations and any other ordinance, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **1439.017 Interpretation**

In the interpretation and application of these regulations, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

#### **1439.018 Warning and Disclaimer of Liability**

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Kenton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

#### **1439.019 Severability**

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

#### **1439.02: DEFINITIONS**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

##### **Accessory Structure**

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

##### **Appeal**

A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

##### **Base Flood**

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

**Base (100-Year) Flood Elevation (BFE)**

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).

**Basement**

Any area of the building having its floor subgrade (below ground level) on all sides.

**Development**

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Enclosure Below the Lowest Floor**

See "Lowest Floor."

**Executive Order 11988 (Floodplain Management)**

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

**Federal Emergency Management Agency (FEMA)**

The agency with the overall responsibility for administering the National Flood Insurance Program.

**Fill**

A deposit of earth material placed by artificial means.

**Flood or Flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Boundary Map (FHBM)**

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

**Flood Insurance Rate Map (FIRM)**

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

### **Flood Insurance Risk Zones**

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

#### **Zone A:**

Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.

#### **Zones A1-30 and Zone AE:**

Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

#### **Zone AO:**

Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

#### **Zone AH:**

Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

#### **Zone A99:**

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

#### **Zone B and Zone X (shaded):**

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

#### **Zone C and Zone X (unshaded):**

Areas determined to be outside the 500-year floodplain.

### **Flood Insurance Study (FIS)**

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

### **Floodproofing**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

### **Flood Protection Elevation**

The Flood Protection Elevation, or FPE. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

### **Floodway**

A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined

through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

### **Freeboard**

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

### **Historic structure**

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
4. Individually listed on the inventory of historic places maintained by the City of Kenton's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

### **Hydrologic and hydraulic engineering analysis**

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

### **Letter of Map Change (LOMC)**

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

#### **Letter of Map Amendment (LOMA)**

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

#### **Letter of Map Revision (LOMR)**



A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

#### Conditional Letter of Map Revision (CLOMR)

A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

#### **Lowest floor**

The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

#### **Manufactured home**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 4781 of the Ohio Revised Code.

#### **Manufactured home park**

As specified in the Ohio Adm. Code 4781-12-01(K), a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes.

#### **Mean sea level**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

#### **National Flood Insurance Program (NFIP)**

The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement

between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

**New construction**

Structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City of Kenton and includes any subsequent improvements to such structures.

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM [April 17, 1996] and includes any subsequent improvements to such structures.

**Person**

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Rev. Code §111.15(A)(2) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

**Recreational vehicle**

A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Registered Professional Architect**

A person registered to engage in the practice of architecture pursuant to Ohio Rev. Code §4703.01 and 4703.19.

**Registered Professional Engineer**

A person registered as a professional engineer pursuant to Ohio Rev. Code Chapter 4733.

**Registered Professional Surveyor**

A person registered as a professional surveyor pursuant to Ohio Rev. Code Chapter 4733.

**Special Flood Hazard Area**

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, or A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**Start of construction**

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

**Structure**

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

**Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to the 'before damaged' condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

**Variance**

A grant of relief from the standards of these regulations.

**Violation**

The failure of a structure or other development to be fully compliant with these regulations.

## **1439.03 ADMINISTRATION**

### **1439.031 Designation of the Floodplain Administrator**

The Public Service Director or their designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

### **1439.032 Duties and Responsibilities of the Floodplain Administrator**

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Evaluate applications for permits to develop in special flood hazard areas.
- B. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- C. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- D. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- E. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations.
- F. Enforce the provisions of these regulations.
- G. Provide information, testimony, or other evidence as needed during variance hearings.
- H. Coordinate map maintenance activities and FEMA follow-up.
- I. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

### **1439.033 Floodplain Development Permits**

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction, alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1439.015, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

### **1439.034 Application Required**

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- A. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Elevation of the existing, natural ground where structures are proposed.
- C. Elevation of the lowest floor, including basement, of all proposed structures.
- D. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- E. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
  - 1. Floodproofing certification for non-residential floodproofed structure as required in Section 1439.045.
  - 2. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1439.044(E) are designed to automatically equalize hydrostatic flood forces.
  - 3. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1439.049(C).
  - 4. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1439.049(B).
  - 5. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1439.049(A).
  - 6. Generation of base flood elevation(s) for subdivision and other new developments as required by Section 1439.043.
- F. A Floodplain Development Permit Application Fee set by the Schedule of Fees adopted by the City of Kenton.

### **1439.035 Review and Approval of a Floodplain Development Permit Application**

#### **A. Review**

1. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1439.034 has been received by the Floodplain Administrator.
2. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

**B. Approval**

Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If the Floodplain Administrator is satisfied that the development proposed in the floodplain development application conforms to the requirements of this ordinance, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

**1439.036 Inspections**

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

**1439.037 Post-Construction Certifications Required**

The following as-built certifications are required after a floodplain development permit has been issued:

- A. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- B. For all development activities subject to the standards of Section 1439.0311(A), a Letter of Map Revision.
- C. For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed *Floodproofing Certificate for Non-Residential Structures* completed by a registered professional engineer or architect together with associated documentation.



### **1439.038 Revoking a Floodplain Development Permit**

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1439.05 of these regulations.

### **1439.039 Exemption from Filing a Development Permit**

An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2500.

### **1439.0310 State and Federal Development**

- A. Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.
- B. Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:
  - 1. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.
  - 2. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
  - 3. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- C. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.
  - 1. Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

### **1439.0311 Map Maintenance Activities**

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Kenton's flood maps, studies and other data identified in Section 1439.015 accurately represent flooding conditions so

appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

**A. Requirement to Submit New Technical Data**

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
  - a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
  - b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
  - c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
  - d. Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with Section 1439.043.
2. It is the responsibility of the applicant to have technical data, required in accordance with Section 1439.0311(A), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
  - a. Proposed floodway encroachments that increase the base flood elevation; and
  - b. Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.
4. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1439.0311(A)(1).

**B. Right to Submit New Technical Data**

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Kenton, and may be submitted at any time.

**C. Annexation / Detachment**

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Kenton have been modified by annexation or

the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Kenton's Flood Insurance Rate Map accurately represent the City of Kenton boundaries, include within such notification a copy of a map of the City of Kenton suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Kenton has assumed or relinquished floodplain management regulatory authority.

#### **1439.0312 Data Use and Flood Map Interpretation**

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- A. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- B. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- C. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1439.05, Appeals and Variances.
- D. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

#### **1439.0313 Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data**

- A. Zone A:
  - 1. Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall be reasonably utilized as best available data.
  - 2. When all appeals have been resolved and a notice of final flood elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.
- B. Zones AE, A1-30, AH, and AO:

1. BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM. However,
  - a. Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.
  - b. Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.
2. If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 1439.049(B) since the data in the draft or preliminary FIS represents the best data available.

C. Zones B, C, and X:

1. Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, or AO. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.

#### **1439.0314 Substantial Damage Determinations**

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, *etc.* After such a damage event, the Floodplain Administrator shall:

- A. Determine whether damaged structures are located in special flood hazard areas;
- B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- C. Require owners of substantially damaged structures to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

## **1439.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION**

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1439.015, 1439.0312(A), or 1439.0313:

### **1439.041 Use Regulations**

#### **A. Permitted Uses**

All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Kenton are allowed provided they meet the provisions of these regulations.

### **1439.042 Water and Wastewater Systems**

The following standards apply to all water supply, sanitary sewerage and waste disposal systems in the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules:

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- C. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

### **1439.043 Subdivisions and Other New Developments**

- A. All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- B. All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- C. All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
- E. The applicant shall meet the requirement to submit technical data to FEMA in Section 1439.0311(A)(1)(d) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1439.043(D).

### **1439.044 Residential Structures**

The requirements of Section 1439.044 apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1439.0313.

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (1439.044(A)) and construction materials resistant to flood damage (1439.044(B)) are satisfied.
- B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- E. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:
  - 1. Be used only for the parking of vehicles, building access, or storage; and
  - 2. be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
  - 3. have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- F. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- G. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and

design of the structure, shall be exempt from the development standards of Section 1439.044.

#### **1439.045 Nonresidential Structures**

The requirements of Section 1439.045 apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1439.0313.

- A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1439.044 (A) – (C) and (E) –(G).
- B. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
  - 1. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
  - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
  - 3. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the design and methods of construction are in accordance with Section 1439.045(B)(1) and (2).
- C. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

#### **1439.046 Accessory Structures**

Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:

- A. They shall not be used for human habitation;
- B. They shall be constructed of flood resistant materials;
- C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of Section 1439.044(E)(3);

#### **1439.047 Recreational Vehicles**

Recreational vehicles on sites within zones A, A1-A30, AE, AO, or AH must meet at least one of the following standards:

- A. They shall not be located on sites in special flood hazard areas for more than 180 days, or
- B. They must be fully licensed and ready for highway use, or
- C. They must be placed on the site pursuant to a floodplain development permit issued under Sections 1439.033 and 1439.034, and meet all standards of Section 1439.044.

#### **1439.048 Gas or Liquid Storage Tanks**

- A. Within zone A, A1-A30, AE, AO, or AH, new or substantially improved above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

#### **1439.049 Assurance of Flood Carrying Capacity**

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

##### **A. Development in Floodways**

- 1. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- 2. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
  - a. Meet the requirements to submit technical data in Section 1439.0311(A);
  - b. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
  - c. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
  - d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
  - e. Concurrence of the Mayor of the City of Kenton and the Chief Executive Officer of any other communities impacted by the proposed actions.

##### **B. Development in Riverine Areas with Base Flood Elevations but No Floodways**

- 1. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other



existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

2. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
  - a. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
  - b. Section 1439.049(A)(2), items (a) and (c)-(e).

### **C. Alterations of a Watercourse**

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Kenton specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
4. The applicant shall meet the requirements to submit technical data in Section 1439.0311(A)(1)(c) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

## **1439.05 APPEALS AND VARIANCES**

#### **1439.051 Appeals Board Established**

- A. The City Council shall appoint an Appeals Board consisting of the Board of Zoning Appeals. The members shall serve 5 year terms after which time they shall be reappointed or replaced by the City Council. Each member shall serve until his/her successor is appointed.
- B. A chairperson shall be elected by the members of the Appeals Board. Meetings of the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the Kenton Municipal Building, 111 West Franklin Street, Kenton, Ohio 43326.

#### **1439.052 Powers and Duties**

- A. The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- B. Authorize variances in accordance with Section 1439.054 of these regulations.

#### **1439.053 Appeals**

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 20 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

#### **1439.054 Variances**

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the

public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

**A. Application for a Variance**

1. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
2. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
3. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City of Kenton.

**B. Notice for Public Hearing**

The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

**C. Public Hearing**

At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
6. The necessity to the facility of a waterfront location, where applicable.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Variances shall only be issued upon:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
4. A determination that the structure or other development is protected by methods to minimize flood damages.
5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

**D. Other Conditions for Variances**

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
2. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1439.054(C)(1) to (11) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**1439.055 Procedure at Hearings**

1. All testimony shall be given under oath.
2. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
3. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
4. The administrator may present evidence or testimony in opposition to the appeal or variance.
5. All witnesses shall be subject to cross-examination by the adverse party or their counsel.

6. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
7. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
8. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

#### **1439.056 Appeal to the Court**

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Hardin County Court of Common Pleas, pursuant to Ohio Rev. Code Chapter 2506.

### **1439.06: ENFORCEMENT**

#### **1439.061 Compliance Required**

- A. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1439.039.
- B. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1439.063.
- C. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1439.063.

#### **1439.062 Notice of Violation**

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, they shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- A. Be put in writing on an appropriate form;
- B. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- C. Specify a reasonable time for performance;
- D. Advise the owner, operator, or occupant of the right to appeal;

- E. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

#### **1439.063 Violations and Penalties**

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Kenton. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Kenton from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Kenton shall prosecute any violation of these regulations in accordance with the penalties stated herein.