

MEETING CALLED TO ORDER:

There was a Salute to the Flag, after which the Borough Clerk stated this meeting is being held pursuant to the New Jersey Open Public Meeting Act. Adequate notice of this meeting was given by advertising in the December, 2022 edition of the Trends and was provided to the Star Ledger, Daily Record and the North Jersey Herald News. Adequate notice was also posted on the Municipal Building Bulletin Board, filed with the Borough Clerk and provided to those persons or entities requesting notification.

ROLL CALL:

The roll was called and present and answering were Councilpersons William Yago, Vincent Russo, Randal Charles and James Lorkowski. Absent were Mayor J. Freda, Councilman Robert Roy and Councilman Sean Mabey

Councilman R. Charles asked the Borough Clerk to read the Sunshine notice.

HEARING FROM THE PUBLIC:

Councilman R. Charles, asked if anyone from the public wishes to be heard.

Eric Harriz, 433 Pepperidge Tree Terrace, Kinnelon spoke on the HVAC System Resolution that was going to appoint Reiner Group

Councilman R. Charles, asked if anyone else from the public wishes to be heard, hearing none, Mayor Freda closed this portion of the meeting.

PAYMENT OF BILLS AS SUBMITTED BY THE TREASURER

A motion was offered by Councilman V. Russo and seconded by Councilman R. Charles for the payment of bills dated November 17, 2022.

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Range of Checking Accts: First to Last Range of Check Dates: 11/18/22 to 12/31/22
Report Type: All Checks Report Format: Super Condensed Check Type: Computer: Y Manual: Y Dir Deposit: Y

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void Ref Num
GENERAL		General Account Account Payab		
24962	12/15/22	AC A.C. DAUGHTRY INC.	287.49	4935
24963	12/15/22	ACT04 ACTION DATA SERVICES	2,251.55	4935
24964	12/15/22	AFF02 AFFILIATED TECHNOLOGY	190.82	4935
24965	12/15/22	AGN01 DEVIN AGNELLO	300.00	4935
24966	12/15/22	AKE01 A&K EQUIPMENT CO INC	741.61	4935
24967	12/15/22	ALL04 ALLIED OIL COMPANY	4,127.20	4935
24968	12/15/22	ALL18 ALLEGIANCE TRUCKS	1,034.65	4935
24969	12/15/22	AMA02 DAVID A. AMADIO, ESQ.	750.00	4935
24970	12/15/22	AMS01 AMSTERDAM PRINTING	70.06	4935
24971	12/15/22	AUT05 THE AUTO PARTS SOURCE	1,060.48	4935
24972	12/15/22	BAR07 BARRETT CONSTRUCTION	664.97	4935
24973	12/15/22	BOR01 BOROUGH OF BUTLER ELECTRIC	6,795.92	4935
24974	12/15/22	BOR02 BOROUGH OF KINNELON	2,466.95	4935
24975	12/15/22	BOR11 BOROUGH OF BLOOMINGDALE	19,088.25	4935
24976	12/15/22	BOR12 BOROUGH OF KINNELON	139.90	4935
24977	12/15/22	BOX01 BOXCAST INC	139.00	4935
24978	12/15/22	BSN01 BSN SPORTS LLC	1,268.99	4935
24979	12/15/22	BUZ01 THE BUZAK LAW GROUP, LLC.	19,103.46	4935
24980	12/15/22	CAB01 OPTIMUM	59.11	4935
24981	12/15/22	CAB02 OPTIMUM	117.73	4935
24982	12/15/22	CAB03 OPTIMUM	116.18	4935
24983	12/15/22	CAB04 OPTIMUM	116.18	4935
24984	12/15/22	CAB05 OPTIMUM	116.18	4935
24985	12/15/22	CAB06 OPTIMUM	116.18	4935
24986	12/15/22	CAB07 OPTIMUM	116.18	4935
24987	12/15/22	CAB08 OPTIMUM	216.18	4935
24988	12/15/22	CAB09 OPTIMUM	116.18	4935
24989	12/15/22	CAB10 OPTIMUM	367.93	4935
24990	12/15/22	CDW01 CDW GOVERNMENT, INC.	512.81	4935
24991	12/15/22	CIN05 CINTAS CORPORATION #111	420.00	4935
24992	12/15/22	CIT05 CIT FINANCE LLC	586.73	4935
24993	12/15/22	COO03 COOPERATIVE COMMUNICATIONS INC	3,859.12	4935
24994	12/15/22	CRO04 DAVID CROUTHAMEL	917.68	4935
24995	12/15/22	CYP01 CYPRESS TAVERN	350.43	4935
24996	12/15/22	DAN01 DAN COMO & SONS INC.	1,620.00	4935
24997	12/15/22	DAN11 CHARLES DANIEL	212.24	4935
24998	12/15/22	DAR01 DARMOFALSKI ENGINEERING ASSOC.	3,500.00	4935
24999	12/15/22	DEB03 DE BLOCK ENVIRONMENTAL SERVICE	6,000.00	4935
25000	12/15/22	DIS03 DISPLAY SALES COMPANY	1,885.00	4935
25001	12/15/22	DOR06 DORSEY & SEMRAU, LLC	199.50	4935
25002	12/15/22	DOV01 DOVER BRAKE & CLUTCH	570.58	4935
25003	12/15/22	ELE03 ELECTRO BATTERY SYSTEMS INC.	258.56	4935
25004	12/15/22	EME02 EMERGENCY MEDICAL PRODUCTS INC	809.08	4935
25005	12/15/22	EVE03 EVERGREEN LANDSCAPE & DESIGN	1,500.00	4935
25006	12/15/22	EXT01 EXTRA SPACE STORAGE	357.00	4935
25007	12/15/22	FAY02 FAYSON LAKES ASSOCIATION	50.00	4935
25008	12/15/22	FER02 BERNADINE FERRARI	300.00	4935
25009	12/15/22	FIN08 FINGER'S RADIATOR HOSPITAL, INC	800.00	4935
25010	12/15/22	GAK01 LAURA GAKOS	103.86	4935

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void Ref Num
GENERAL		General Account Payab	Continued	
25011	12/15/22	GIR01 GIRLS KLAX	904.00	4935
25012	12/15/22	GRA01 GRAINGER INC.	1,670.95	4935
25013	12/15/22	GSB01 GLATFELTER SPECIALTY BENEFITS	118.68	4935
25014	12/15/22	HAI04 ELLEN HAID	30.00	4935
25015	12/15/22	HAW HAWKINS, DELAFIELD & WOOD	11,868.44	4935
25016	12/15/22	HAW03 HAWTHORNE CHEVROLET	1,164.98	4935
25017	12/15/22	HOM02 HOME DEPOT CREDIT SERVICE	2,759.39	4935
25018	12/15/22	HOR04 HORIZON OFFICE EQUIPMENT	255.00	4935
25019	12/15/22	IRW01 LEIGH IRWIN	261.12	4935
25020	12/15/22	IUE01 KAREN IUELE	410.00	4935
25021	12/15/22	JCP01 JCP&L	13.15	4935
25022	12/15/22	JIM01 JIMMY THE SHOE DOCTOR	496.95	4935
25023	12/15/22	JOHNPABA JOHN P. AHART	4,755.60	4935
25024	12/15/22	KAS04 CAMILLE KASSAR	4,375.00	4935
25025	12/15/22	KAS05 STEPHEN KASEGRANDE	200.00	4935
25026	12/15/22	KHS06 KHS STUDENT ACTIVITIES	1,921.00	4935
25027	12/15/22	KIE03 KIEL HOOK AND LADDER CO.	400.00	4935
25028	12/15/22	KIN05 KINNELON PUBLIC LIBRARY	130,000.00	4935
25029	12/15/22	KIN06 KINNELON SENIOR CITIZENS	2,350.00	4935
25030	12/15/22	KIN08 KINNELON VOLUNTEER FIRE CO.	9,625.00	4935
25031	12/15/22	KIN09 KINNELON BOARD OF EDUCATION	3,383,387.50	4935
25032	12/15/22	KIN20 KINNELON JUNIOR FOOTBALL ASSN	1,808.00	4935
25033	12/15/22	KIN24 KINNELON BOYS YOUTH LACROSSE	678.00	4935
25034	12/15/22	KIN37 KINNELON HEIGHTS CONDO ASSOC.	3,194.09	4935
25035	12/15/22	KIN39 KINNELON SOCCER CLUB	678.00	4935
25036	12/15/22	KOV01 DAVID KOVAL	1,100.00	4935
25037	12/15/22	KYB01 KYBA	1,469.00	4935
25038	12/15/22	LAK02 LAKELAND BANK EQUIP FINANCE	2,533.10	4935
25039	12/15/22	LAK13 LAKELAND AUTO PARTS	1,434.31	4935
25040	12/15/22	LAW01 LAWMEN SUPPLY COMPANY OF NJ	101.72	4935
25041	12/15/22	LAW07 LAWSOFT INC.	695.00	4935
25042	12/15/22	LCB01 LCB SERVICES	45.00	4935
25043	12/15/22	LEX01 LEXIPOL, LLC	3,602.88	4935
25044	12/15/22	LIG10 LIGHTNING X PRODUCTS, LLC	320.93	4935
25045	12/15/22	MAT04 MATTHIJSSSEN, INC.	2,526.00	4935
25046	12/15/22	MCI01 MCI EASTERN SECURITY SYSTEMS	1,222.50	4935
25047	12/15/22	MIC02 MICROSYSTEMS-NJ.COM, L.L.C.	2,559.55	4935
25048	12/15/22	MON14 MONMOUTH TELECOM	500.09	4935
25049	12/15/22	MOR14 MORRIS CTY POLICE CHIEFS ASSOC	200.00	4935
25050	12/15/22	MOR21 MORRIS COUNTY M.U.A.	29,155.09	4935
25051	12/15/22	MOR42 THE LAND CONSERVANCY OF NJ	4,000.00	4935
25052	12/15/22	MORO7 MORRIS COUNTY CLERK'S OFFICE	30.00	4935
25053	12/15/22	NES01 NESTLE PURE LIFE DIRECT	308.72	4935
25054	12/15/22	NIE02 NIELSEN DODGE	15.56	4935
25055	12/15/22	NIO01 JOSEPH NIOSI	751.96	4935
25056	12/15/22	NJD07 NJ DEPT HEALTH & SENIOR SERV	6.60	4935
25057	12/15/22	NOR02 NORTH JERSEY MEDIA GROUP	256.73	4935
25058	12/15/22	NOR13 NORTH JERSEY MUNICIPAL	3,766.00	4935
25059	12/15/22	NOR18 NORTHEAST COMMUNICATIONS, INC.	4,356.64	4935
25060	12/15/22	NOR24 NORTHEAST FLAGS	550.00	4935
25061	12/15/22	ODB02 THE ODB CO	976.90	4935
25062	12/15/22	ONE02 ONE CALL CONCEPTS, INC.	64.35	4935

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account Payab			Continued
25063	12/15/22	ONE03 ONE SOURCE OF NEW JERSEY LLC	953.05		4935
25064	12/15/22	ORT01 ORIENTAL TRADING COMPANY	49.97		4935
25065	12/15/22	PAR09 PARAGON RESTORATION CORP.	11,116.40		4935
25066	12/15/22	PHO03 PHOENIX ADVISORS, LLC	1,150.00		4935
25067	12/15/22	PLA04 PLAQUEMAKER.COM	986.50		4935
25068	12/15/22	PRI07 PETER PRIESTNER	124.00		4935
25069	12/15/22	PSE01 P.S.E. & G.	3,350.40		4935
25070	12/15/22	RAC02 RACHLES/MICHELE'S OIL CO., INC	2,259.45		4935
25071	12/15/22	REI09 REINER GROUP INC.	585.00		4935
25072	12/15/22	ROK01 ROK INDUSTRIES, INC.	90.00		4935
25073	12/15/22	SAN03 TONY SANCHEZ, LTD	2,096.00		4935
25074	12/15/22	SCH30 MELANIE SCHUCKERS	247.09		4935
25075	12/15/22	SHA03 THE SHADE TREE DEPARTMENT LLC	520.59		4935
25076	12/15/22	SHO06 DOUGLAS SHORTWAY	158.63		4935
25077	12/15/22	SIG03 SIGNAL CONTROL PRODUCTS, INC.	249.00		4935
25078	12/15/22	SKY05 SKYTOP RECYCLING	650.00		4935
25079	12/15/22	STA STAPLES ADVANTAGE, DEPT NY	318.47		4935
25080	12/15/22	SUB03 SUBURBAN DISPOSAL INC.	62,805.55		4935
25081	12/15/22	SUP04 SUPPLIES SHOPS, INC.	129.41		4935
25082	12/15/22	TAN07 DARA TANZOLA	60.00		4935
25083	12/15/22	TAS01 TASTE OF REALITY	91.20		4935
25084	12/15/22	TIL01 TILCON NEW YORK INC.	522.86		4935
25085	12/15/22	TRE11 TREASURER, STATE OF NEW JERSEY	1,000.00		4935
25086	12/15/22	TRI23 TRITON TRAINING GROUP	800.00		4935
25087	12/15/22	TUR01 TURN-OUT UNIFORMS INC.	342.67		4935
25088	12/15/22	TWI01 TCJWL	700.00		4935
25089	12/15/22	TYR01 TYREX RESOURCES LLC	456.50		4935
25090	12/15/22	USP02 U.S. POSTAL SERVICE	15,552.34		4935
25091	12/15/22	USS01 US SPORTS INSTITUTE, INC.	2,970.00		4935
25092	12/15/22	VER06 VERIZON WIRELESS	340.69		4935
25093	12/15/22	VER11 VERIZON WIRELESS - KPD	152.04		4935
25094	12/15/22	VER12 V.E. RALPH & SON, INC.	208.80		4935
25095	12/15/22	WAL11 WALLINGTON PLUMBING & HEATING	218.57		4935
25096	12/15/22	WAS04 WASH HOUNDS	81.00		4935
25097	12/15/22	WAY04 WAYNE ELECTRIC SUPPLY COMPANY	102.19		4935
25098	12/15/22	ZUI DAVID ZUIDEMA, INC.	630.00		4935

Checking Account Totals	<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:	137	0	3,824,693.77	0.00
Direct Deposit:	<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0.00</u>
Total:	137	0	3,824,693.77	0.00

PLANNING 2	Columbia Bank				
1872	12/15/22	DAR01 DARMOFALSKI ENGINEERING ASSOC.	1,250.00		4936

Checking Account Totals	<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:	1	0	1,250.00	0.00
Direct Deposit:	<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0.00</u>
Total:	1	0	1,250.00	0.00

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
Continued					
PLANNING 2		Columbia Bank			
Report Totals			<u>Amount Paid</u>	<u>Amount Void</u>	
		Checks:	138	0	3,825,943.77
		Direct Deposit:	0	0	0.00
		Total:	138	0	3,825,943.77

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	2-01	3,781,889.16	0.00	0.00	3,781,889.16
WATER FUND	2-05	1,771.61	0.00	0.00	1,771.61
SEWER FUND	2-07	6,000.00	0.00	0.00	6,000.00
Year Total:		<u>3,789,660.77</u>	<u>0.00</u>	<u>0.00</u>	<u>3,789,660.77</u>
	C-04	1,875.00	0.00	0.00	1,875.00
DOG TAX	D-13	17.24	0.00	0.00	17.24
STATE AND FEDERAL GRANTS	G-02	12,093.30	0.00	0.00	12,093.30
	I-14	750.00	0.00	0.00	750.00
SNOW TRUST	N-35	2,096.00	0.00	0.00	2,096.00
RECREATION SPECIAL	R-16	12,114.50	0.00	0.00	12,114.50
	S-20	1,700.00	0.00	0.00	1,700.00
	V-27	4,000.00	0.00	0.00	4,000.00
RECYCLE FUND	Y-21	386.96	0.00	0.00	386.96
Total of All Funds:		<u><u>3,824,693.77</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>3,824,693.77</u></u>

Project Description	Project No.	Project Total
144 Kinneon Rd #111509 Aflani	111509	125.00
1167 RT 23 SOUTH	1547	625.00
27 HARRISON ROAD	45104112	125.00
20 WALNUT LN SCHMITT 45502114	45502114	125.00
56601123 MEADOWS 90 ALIZE	56601123	250.00
Total of All Projects:		<u>1,250.00</u>

RESOLUTION 12.01.22

AUTHORIZING THE HIRING OF
WILLIAM GROFF AS A FULL -TIME
DPW MAINTAINER FOR THE BOROUGH
OF KINNELON

WHEREAS, the Borough Council wishes to hire William Groff as a full-time DPW Maintainer employee for the Borough of Kinnelon with a start date of November 7, 2022; and

WHEREAS, William Groff rate of pay per hour will be \$20.00 as per Union Contract.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Kinnelon approve hiring William Groff as a full-time DPW Maintainer employee for the Borough of Kinnelon as of November 7, 2022.

CERTIFICATION

I, Karen M. luele, Borough Clerk, do hereby certify this to be a true copy of a resolution duly adopted at the regular meeting of the Kinnelon Mayor and Council held on December 20, 2022.

Dated: December 28, 2022

A handwritten signature in cursive script, appearing to read 'K. M. luele', written over a horizontal line.

Karen M. luele, RMC
Borough Clerk

RESOLUTION 12.02.22

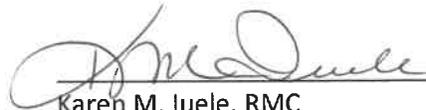
AUTHORIZING SOIL DISTURBANCE PERMIT
90 ALIZE DRIVE-BLOCK 56601 LOT 123

WHEREAS, the Mayor and Council of the Borough of Kinnelon approves the Soil Disturbance Permit for 90 Alize Drive, Block 56601 Lot 123; and

WHEREAS, Chris Meadows has met all the requirements and approvals with Darmofalski Engineering Associates, Inc.; and

NOW, THEREFOR, BE IT RESOLVED, that the Mayor and Council of the Borough of Kinnelon does hereby approve the Soil Disturbance, 90 Alize Drive, Kinnelon NJ.

Dated: December 28, 2022



Karen M. Luele, RMC
Borough Clerk

RESOLUTION NO.: 1203.22

ALLOWING THE LOWEST NOMINAL BIDDER TO WITHDRAW ITS BID PROPOSAL ON THE BASIS OF MISTAKE PURSUANT TO N.J.S.A. 40A:11-23.3 AND AWARDING THE CONTRACT FOR THE BASE BID FOR THE MUNICIPAL BUILDING AND LIBRARY HVAC REPLACEMENT TO THE SECOND BIDDER AS THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER.

WHEREAS, the Borough of Kinnelon (“Borough” or “Kinnelon”) solicited bids for the Municipal Building and Library HVAC replacement (“Project”) in the Borough, and

WHEREAS, on December 1, 2022 four bids were received for said Project; and

WHEREAS, the nominal low bidder, First Goal Heating & Cooling (“First Goal”), Dover, New Jersey, submitted the low bid for the Project, both with alternate and without alternate; and

WHEREAS, said bid was approximately 57% of the second low bid for the Project (with and without the alternate) submitted by the second nominal low bidder, Reiner Group, Inc. (“RGI”), Fairlawn, New Jersey; and

WHEREAS, First Goal requested permission to withdraw its bid proposal pursuant to N.J.S.A. 40A:11-23.3 on the basis that it made a material mistake in the bid calculation; and

WHEREAS, certain documentation was submitted by First Goal to the Borough, and reviewed by the Borough Counsel and its Qualified Purchasing Agent (“QPA”) in support of its claim; and

WHEREAS, the Borough Counsel and its QPA recommend to the governing body that First Goal be permitted to withdraw its bid pursuant to N.J.S.A. 40A:11-23.3 on the basis that it made a material mistake; and

WHEREAS, the Borough Engineer and Borough Counsel reviewed the bid proposal submitted by the second nominal low bidder, RGI; and

WHEREAS, the Borough Counsel found the RGI bid in compliance with the bid specifications; and

WHEREAS, the Borough Engineer also found the RGI bid in compliance with the bid specifications; and

WHEREAS, the governing body desires to allow First Goal to withdraw its bid pursuant to N.J.S.A. 40A:11-23.3 on the basis of a material mistake and to award the contract for the base bid to the second low bidder, RGI in the amount of \$998,500.00 as the lowest responsible and responsive bidder.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

1. The governing body hereby determines that the nominal low bidder, First Goal, made a material mistake in its bid proposal and permits the withdrawal of that bid by First Goal without penalty pursuant to N.J.S.A. 40A: 11-23.3.

2. The governing body hereby awards the contract for the base bid for the Municipal Building and Library HVAC replacement to Reiner Group, Inc.(“RGI”) in the amount of \$998,500.00 as the lowest responsible and responsive bidder.

3. The Mayor and Borough Clerk are hereby authorized and directed to execute the contract for the base bid with RGI as the lowest responsible and responsive bidder in the amount of \$998,500.00 and the said officers, along with the Borough Administrator, QPA, Borough Engineer, Borough Counsel, and all other appropriate officers, professionals and employees of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.

4. This Resolution shall take effect immediately.

CERTIFICATION

I, Karen M. Iuele, Borough Clerk of the Borough of Kinnelon, hereby certify that the foregoing is a true and complete copy of the resolution which was adopted by the Mayor and Council of the Borough of Kinnelon at the regular meeting held on the 20th day of December, 2022.


Karen M. Iuele, Borough Clerk

RESOLUTION 12.06.22

TO REFUND DRIVEWAY BOND
9 FAYSON LAKES ROAD

WHEREAS, Stephen Kasegrande was required to submit a \$200.00 Driveway bond for permit #1727 in order to install a driveway located at 9 Fayson Lakes Road, Kinnelon, New Jersey; and

WHEREAS, the driveway was installed, inspected and approved by the Public Works Foreman; and

WHEREAS, it is deemed appropriate to refund the driveway bond to Stephen Kasegrande, 9 Fayson Lakes Road, Kinnelon, New Jersey, in the amount of \$200.00

NOW THEREFORE, BE IT RESOLVED the chief Financial officer is hereby authorized to refund a check in the amount of \$200.00 payable to Stephen Kasegrande, 9 Fayson Lakes Road.

Dated 1 December 28, 2022


Karen Luele
Borough Clerk

RESOLUTION *12.07.22*

TO REFUND DRIVEWAY BOND
21 POWDERHORN DRIVE

WHEREAS, Evergreen Landscape & Design was required to submit a \$1,500.00 Driveway bond for permit #1726 in order to install a driveway located at 21 Powderhorn Drive, Kinnelon, New Jersey; and

WHEREAS, the driveway was installed, inspected and approved by the Public Works Foreman; and

WHEREAS, it is deemed appropriate to refund the driveway bond to Evergreen Landscape & Design, in the amount of \$1,500.00

NOW THEREFORE, BE IT RESOLVED the chief Financial officer is hereby authorized to refund a check in the amount of \$1,500.00 payable to Evergreen Landscape & Design.

Dated *December 28, 2022*



Karen Luele
Borough Clerk

RESOLUTION: 12.08.22

TRANSFER OF BUDGET FUNDS FOR 2022

WHEREAS, there appears to be insufficient funds in the following accounts (accepting appropriation for Contingent Expenses or Deferred Charges, to meet the demand thereon for balance of the Current Year):

NOW, THEREFORE, BE IT RESOLVED, not less than two-third of all the members thereof affirmatively concurring that in accordance with the provisions of R. S. 40A:4-58, part of the surplus in the accounts heretofore mentioned be and same hereby transferred to the account being insufficient to meet the current demands; and

BE IT FURTHER RESOLVED that the Treasurer is hereby authorized and directed to make the following transfers:

CURRENT FUND:

TO:

Board of Health S&W (2-01-27-330-001)	\$380.00
Municipal Court S&W (2-01-43-490-001)	\$210.00
Interest on Bonds (2-01-45-930-000)	\$226.00
TOTAL:	\$816.00

FROM:

Finance S&W (2-01-20-130-001)	\$590.00
Interest on BANS (2-01-45-925-000)	\$226.00
TOTAL:	\$816.00

DATED: 12/28/22



Karen M. Iuele, Borough Clerk

**ORDINANCE NO. 19-22 AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 169 "SOIL DISTURBANCE" OF THE
KINNELON BOROUGH CODE**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon desires to update Chapter 169 "Soil Disturbance" of its Code by amending and supplementing provisions therein.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. Section 169-2 "Grading plans required", Paragraph A therein, is hereby amended such that the minimum escrow amount required to be submitted with a grading plan under said section is increased from \$1,000 to \$1,500, and said section now reads as follows:

- A. Any soil disturbance that results in a change in grade or elevation of two feet or more, but does not fall within the limits set forth below in § **169-3**, shall require approval from the Borough Engineer. A grading plan shall be prepared and submitted to the Borough Engineer for approval, along with a minimum escrow amount of \$1,500. The applicant shall also file a building permit application with the Building Department and pay the appropriate fee. The Borough Engineer may request additional escrow funds as warranted.

SECTION 2. Section 169-3 “Soil disturbance permit required”, Paragraphs A and B

therein, are hereby amended and now read as follows:

- A. Any soil disturbance within the Borough of Kinnelon involving 50 cubic yards volume of soil or more on one site shall comply with the provisions of this chapter. Any soil disturbance within the Borough of Kinnelon involving 50 cubic yards volume of soil or more on one site requires first obtaining a soil disturbance permit, as provided herein. This section shall not apply to soil disturbance by the Borough or its contractors.
- B. This section shall also apply to soil disturbance incidents under a permit issued by the Construction Official for the enlargement or addition to an existing single-family residence, construction of a single-family dwelling and its accessory structures (such as garages, decks, retaining walls, sheds, swimming pools, cabana houses, driveways, etc.).

SECTION 3. Section 169-3 “Soil disturbance permit required”, Paragraph C therein, is hereby amended and revised such that an application for an extension of a soil disturbance permit will no longer be made to the Borough Council but to the Borough Engineer, and said section now reads as follows:

- C. The soil disturbance permit shall expire after one year from the date it is issued. In the event the soil disturbance activity for which the permit was issued is not completed within one year, the applicant may apply to the Borough Engineer for an extension of said permit. Approval of said extension shall not be unreasonably withheld.

SECTION 4. Section 169-3 “Soil disturbance permit required”, Paragraph F(1)(f) therein, is hereby amended and now reads as follows:

- F.(1)(f) Cut and fill operations over an area less than 400 square feet that result in no more than a two-foot change in elevation at any point.

SECTION 5. Section 169-4 “Application and contour map”, Paragraph A therein, is hereby amended and now reads as follows:

- A. Application. Any disturbance of soil within the Borough of Kinnelon of 5,000 square feet of surface area or more on one site or 50 cubic yards' volume of soil or more on one site requires the submission to the Borough Clerk of an application for a soil disturbance permit. In addition, an application fee in the amount of \$150 must be submitted with the application if the applicant proposes to disturb 50 to 500 cubic yards of soil. An application fee in the amount of \$500 must be submitted with the application if the applicant proposes to disturb 501 or more cubic yards of soil. In the event soil is being exported from one site within the

Borough of Kinnelon and imported to another site within the Borough of Kinnelon, then two soil disturbance permits must be obtained: one permit for the exportation and one permit for the importation. Applications can be obtained from the Borough Clerk's office and shall be signed by the person intending to perform the soil disturbance and by the owner of the site where the soil is to be disturbed. In addition, the application must include a contour map of the site where the soil is to be disturbed, the appropriate fee, and when the application involves the importation or exportation of soil, a traffic plan. Four copies of the application shall be submitted to the Borough Clerk.

SECTION 6. The introductory portion of Paragraph B in Section 169-4 "Application and contour map" relating to the contour map is hereby amended and now reads as follows:

- B. Contour map. Accompanying the application shall be a contour map of the site where the soil is to be disturbed showing the proposed grades resulting from the intended soil disturbance in relation to the existing topography of the site. Four copies of the map and earthwork calculations shall be submitted to the Borough Clerk with the application. The map and earthwork calculations must include not only the site where the soil is to be disturbed, but also all surrounding lands within 200 feet of the perimeter of the site. The map and earthwork calculations shall be prepared and certified by a licensed professional engineer of the State of New Jersey. The map must be prepared using a scale of not less than one inch to 30 feet, showing the site and its relation to all of the surrounding lands in the following manner:

SECTION 7. Section 169-4 "Application and contour map" is hereby amended such that existing Paragraph C therein relating to "Traffic Plan" is re-lettered Paragraph "D" and subsections (1)(e) and (2) within said paragraph revised, and now read as follows:

- (1)(e) The required traffic plan shall comply with the following requirements.
- [1] Except for emergencies, all soil shall be imported or exported from the subject site during the hours of 7:00 a.m. through 6:00 p.m., Eastern time, on weekdays only (excluding holidays).
 - [2] The scheduling of trucks used to move soil to and from the subject site shall be done in such a way as to minimize truck traffic within school zones during the morning and afternoon school hours.
- (2) Four copies of the traffic plan shall be submitted to the Borough Clerk with the application.

SECTION 8. Section 169-4 "Application and contour map" is hereby supplemented to include a new Paragraph C which reads as follows:

- C. Stormwater Management. All applications for building permits and/or grading plan approval for properties applicable to this ordinance shall contain plans, construction details, calculations and reports that provide for zero increase in the rate and volume stormwater runoff for the completed project to ensure there will be no adverse impact on downstream structures, steep slopes, properties and public roads. For projects having less than 5,000 square feet of disturbance and less than 1,000 square feet of impervious cover, the Applicant's Engineer shall size stormwater facilities to store three (3") inches of rainfall depth over the area of new impervious coverage. Where disturbances and coverages are greater than noted above, the Applicant's Engineer shall use the modified rational method, or NRCS method, or a method as may be deemed appropriate by the Borough Engineer.

SECTION 9. Section 169-5 "Review and examination of application" is hereby repealed in its entirety and replaced with the following, and now reads as follows:

§ 169-5 Review and examination of application.

- A. Upon receipt of an application for a soil disturbance permit in conjunction with an application before the Planning Board or Board of Adjustment, the Borough Clerk shall send a copy of the same to the Planning Board or Board of Adjustment, as appropriate, and the Borough Engineer. The Borough Engineer shall review the application and the findings of the Planning Board or Board of Adjustment, and submit a report to the Borough Clerk approving or denying the soil disturbance permit. In the event a soil disturbance permit application is submitted in conjunction with soil disturbance on property that is not before the Planning Board or Board of Adjustment, the permit application shall be submitted to the Borough Clerk for distribution to the Borough Engineer. The Borough Engineer shall review the application and submit a report to the Borough Clerk approving or denying the soil disturbance permit.
- B. The Planning Board or Board of Adjustment and/or Borough Engineer, in considering and reviewing the application and the contour map, shall take into consideration the public health, safety and general welfare, and shall give particular consideration to the following factors:
- (1) The potential for soil erosion by water and wind.
 - (2) The prevention of silt and sediment from entering brooks, streams, ponds, lakes, rivers and other bodies of water.
 - (3) The existing drainage of the site involved and any changes in drainage patterns that may result from the establishment of new contours.
 - (4) Types and fertility of the soil to be removed and the use to which it will be put.
 - (5) Lateral support slopes and grades of abutting streets and lands.

- (6) Land values and uses of those properties affected directly or indirectly by the proposed disturbance of soil.
 - (7) Such other factors as may bear upon or relate to a coordinated, adjusted and harmonious physical development of the site in connection with the surrounding lands in accordance with the master plan for the development of the Borough.
- C.
- (1) The Borough Engineer shall respond in writing, either recommending approval or denial, to the Borough Clerk within forty-five (45) days of receipt of a complete soil disturbance permit application.
 - (2) As directed by the Borough Engineer, the Borough Clerk shall issue or deny the soil disturbance permit within five (5) days after receipt of the report and recommendation of the Borough Engineer.
 - (3) A denial of a soil disturbance permit may be appealed to the Borough Council, who shall hear such appeal at its next regularly scheduled meeting.

SECTION 10. Section 169-6 “Fees”, Paragraph A therein, is hereby amended such that the minimum escrow to be established is increased from \$1,000 to \$1,500, and said paragraph now reads as follows:

- A. An application fee of \$150 must be submitted with the application if the applicant proposes to disturb 50 to 500 cubic yards of soil. An application fee in the amount of \$500 must be submitted with the application if the applicant proposes to disturb 501 or more cubic yards of soil. In addition to the application fee stated herein, a minimum escrow of \$1,500 must be established. The Borough Engineer may request additional escrow funds as warranted.

SECTION 11. Section 169-6 “Fees” is hereby further amended such that existing Paragraphs B and C therein are repealed in their entirety.

SECTION 12. Section 169-7 “Performance Guarantee” is hereby amended such that approval for soil disturbance permits and permission for soil disturbance are not obtained from the Borough Council, and said section now reads as follows:

Before any permit or permission for soil disturbance is granted or issued, the owner or applicant shall file with the Borough Clerk, in such amount as in the opinion of the Borough Engineer shall be sufficient, a performance guarantee, in a form satisfactory to the Borough Attorney, consistent with the guarantee form permitted under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., to insure the faithful performance of the work to be undertaken pursuant to the provisions of this section. For those soil permit

applications submitted in connection with an application before the Planning Board or Board of Adjustment, said performance guarantee may be included in the guarantee required by the developer's agreement. An as-constructed contour map shall be filed and approved by the Borough Engineer prior to the release of any bond required.

SECTION 13. Any provisions not amended by this Ordinance shall remain in full force and effect.

SECTION 14. All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 15. If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 16. This Ordinance shall take effect after approval and publication as required by law.

ATTEST:


Karen M. Iuele, RMC, Borough Clerk

BOROUGH OF KINNELON


James J. Freda, Mayor

**ORDINANCE NO. 21-22 AN ORDINANCE ADOPTING THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION'S MODEL LOCAL NOISE CONTROL
ORDINANCE**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon ("Borough") desires to adopt a noise control ordinance pursuant to the State of New Jersey's Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq., and more specifically, the Model Local Noise Control Ordinance promulgated by the NJ Department of Environmental Protection ("Department").

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. Existing Chapter 146 "Noise" of the Borough Code is hereby repealed in its entirety and replaced with the following such that said chapter now reads as follows:

Chapter 146 Noise

146-1 Declaration of Findings and Policy.

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which

excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of the Borough to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within the Borough of Kinnelon.

146-2 Definitions.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

"Minor Violation" means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Noise Control Investigator" (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

"Sound production device" means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

"Sound reduction device" means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

"Weekends" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

146-3 Applicability.

- A. This model noise ordinance applies to sound from the following property categories:
- (1) Industrial facilities;
 - (2) Commercial facilities;
 - (3) Community service facilities;
 - (4) Residential properties;

- (5) Multi-use properties;
 - (6) Public and private right-of-ways;
 - (7) Public spaces; and
 - (8) Multi-dwelling unit buildings.
- B. This model noise ordinance applies to sound received at the following property categories:
- (1) Commercial facilities;
 - (2) Community service facilities (i.e. non-profits and/or religious facilities)
 - (3) Residential properties;
 - (4) Multi-use properties;
 - (5) Multi-dwelling unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

146-4 Exemptions.

- A. Except as provided in 146-9 . and 146-10. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- B. Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- C. Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in 146-9 . below.

146-5. Enforcement Officers

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- B. Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities. The Kinnelon Police Department and its officers, Health Department officials, Code

Enforcement Officer and Zoning Officer are all designated noise control investigators.

- C. Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

146-6. Measurement Protocols.

- A. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in 146-6(B) of this ordinance and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

146-7. Maximum Permissible Sound Levels.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in 146-3(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in 146-6(B).
- B. Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

**TABLE II
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED INDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
	Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

146-8. Sound Production Devices.

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in 146-6(B) of this ordinance. These sound level

measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

**TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY**

Weeknights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

146-9. Restricted Uses and Activities.

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.

- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;
- G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
 - (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
 - (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

146-10. Motor Vehicles.

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this

provision if it is operated stationary or in motion in any public space or public right-of-way.

- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- C. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- D. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

146-11. Enforcement.

- A. Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- B. Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.
- D. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in 146-2 of this ordinance) a NOV shall be issued to the violator.
 - (1) The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

- (2) The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Kinnelon Health Department. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- F. The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- G. The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- H. The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- I. Any claim for a civil penalty may be compromised and settled based on the following factors:
1. Mitigating or any other extenuating circumstances;
 2. The timely implementation by the violator of measures which lead to compliance;
 3. The conduct of the violator; and
 4. The compliance history of the violator.

146-12. Consistency, Severability and Repealer.

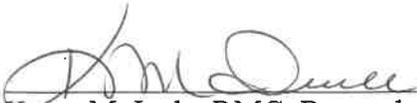
- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinances or parts of ordinances, resolutions and regulations which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.
- C. No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

SECTION 2. If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 3. This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON



Karen M. Iuele, RMC, Borough Clerk



James J. Freda, Mayor

ORDINANCE NO. 22-22 AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE RENEWAL OF A CABLE TELEVISION FRANCHISE TO CABLEVISION OF OAKLAND, LLC FOR THE SUPPLYING OF CABLE TELEVISION SERVICES IN THE BOROUGH OF KINNELON, COUNTY OF MORRIS, STATE OF NEW JERSEY

WHEREAS, by Ordinance 7-73, as amended, the Mayor and Council of the Borough of Kinnelon (the "Borough") granted a non-exclusive franchise for cable television services to Micro Cable Communications Corp., d/b/a UA-Columbia Cablevision of New Jersey ("UACC"), for a period of fifteen (15) years; and

WHEREAS, by Ordinance 7-89, as amended, the Mayor and Council of the Borough, granted a non-exclusive consent for the renewal of the cable television franchise to UACC for a period of ten (10) years; and

WHEREAS, on June 25, 1990, the cable operator became United Artists Cable of New Jersey; in 1991 the cable operator became United Artists Cable Company, a TCI Company; in November 1992, the cable operator became TCI of Northern New Jersey; and, as of March 4, 1998, the cable system was transferred to Cablevision of Oakland, Inc. and on December 26, 2001 the cable system was transferred to Cablevision of Oakland, LLC (the "Company"); and

WHEREAS, by Ordinance 8-99, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, by Ordinance 10-11, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, the Company has filed with the Borough of Kinnelon an Application for Municipal Consent for the renewal of the non-exclusive cable television franchise in accordance with the law; and

WHEREAS, on July 12, 2022 a public hearing concerning the renewal of the franchise for

the placement, operation and maintenance of a cable television system was duly held, after proper public notice, pursuant to the terms and conditions of the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), the New Jersey Cable Television Act (N.J.S.A. 48:5A-1, et seq.) and administrative regulations promulgated thereunder (N.J.A.C. 14:17-1.1, et seq.), and other applicable law; and all comments and presentations regarding the qualifications of the Company for renewal of the franchise having been received and considered; and

WHEREAS, the Borough, by its governing body, hereby makes and finds the following determinations with respect to the Application for Municipal Consent (the "Application") of the Company:

- a. The Company has substantially complied with the material terms of the existing franchise and applicable law;
- b. The quality of the Company's service has been reasonable in light of community needs;
- c. The Company possesses the financial, legal, and technical ability to provide the services, facilities and equipment set forth in its Application and proposal, the terms of which are incorporated herein;
- d. The Company's Application and proposal is reasonable to meet the future cable-related community needs and interest, taking into account the cost of meeting such needs and interests.

WHEREAS, the Borough desires to grant the renewal of the franchise for cable television services to the Company under the terms and conditions as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. GRANT OF NON-EXCLUSIVE FRANCHISE. The Borough hereby grants to the Company its non-exclusive consent to place in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways, and public places in the Borough poles, wires,

cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facilities and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 2. DEFINITIONS. For the purposes of the Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions given by the Federal Communications Commission, F.C.C. Rules and Regulations 47 C.F.R. Subsection 76.1 et seq.; the Cable Communications Policy Act of 1984, 47 U.S.C. 521 et seq., as amended; and the Cable Television Act, N.J.S.A. 48:5A-1 et seq. and shall in no way be construed to broaden, alter or conflict with federal or state definitions:

a. "Borough" shall mean the Borough of Kinnelon, County of Morris, State of New Jersey.

b. "Company" shall mean Cablevision of Oakland, LLC, the grantee of rights under this Ordinance.

c. "State" shall mean the State of New Jersey.

d. "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and subsequent amendment thereto.

e. "Federal Act" shall mean the federal statute relating to cable communications known as the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and the Telecommunications Act of 1996, and subsequent amendments thereto.

f. "FCC" shall mean the Federal Communications Commission.

g. "Board" shall mean the Board of Public Utilities of the State of New Jersey or its

successor agency.

h. "Office of Cable Television" shall mean the Board of Public Utilities of the State of New Jersey, Office of Cable Television.

i. "Application" shall mean the Application for Renewal of Municipal Consent submitted by the Company to the Borough, dated April 15, 2022, which application is on file in the Borough's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.

j. "Standard Installation" shall mean the installation of drop cable to a customer's premises where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

k. "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq., and subsequent amendments thereto.

l. "State Regulations" shall mean those state regulations relating to cable television, N.J.A.C. 14:17-1.1 et seq. and 14:18-1 et seq., and subsequent amendments thereto.

SECTION 3. STATEMENT OF FINDINGS. On July 12, 2022, a public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Borough having received all comments regarding the qualifications of the Company to receive this consent, the Borough hereby finds the Company possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE. The consent herein granted shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of

Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL. If the Company seeks a successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and Certificate of Approval in accordance with N.J.S.A. 48:5A-16, and applicable State and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and the Company shall be bound by the terms of this municipal consent until such time as the Company converts the municipal consent (and any Certificate of Approval) into a system-wide franchise.

SECTION 6. FRANCHISE FEE. Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Borough two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in the Borough or any amount mandated by the Act or otherwise required by law in excess of the fee provided for in this Section, which increase shall become effective ninety (90) days after the month following the modification in the Act or law that requires the increase. In the event a change in the Act or law requires a larger franchise fee to be collected, but does not fix the amount thereof, the Company and the Borough shall negotiate in good faith as to the amount of the franchise fee.

The Company may use electronic funds transfer to make any payments to the Borough required under this Ordinance.

SECTION 7. TERRITORY. The consent granted herein to the Company shall apply to the entirety of the Borough and any property hereafter annexed.

SECTION 8. PROVISION OF SERVICE. The Company shall be required to proffer service along any public right-of-way to any person's residence located in those areas of the franchise territory described herein, in accordance with the proposal for the provision of services as described in the

Application. Any additional extension of the system will be made in accordance with the Company's line extension policy as set forth in the Application. Commercial entities will be proffered service in accordance with the Company's commercial line extension policy as identified in the Application.

SECTION 9. CONSTRUCTION REQUIREMENTS. Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its plant and facilities in the Borough:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough, shall remove, re-lay and relocate its equipment, at the expense of the Company.

(c) Upon at least 14 days' written notice, the Company shall temporarily move or remove appropriate parts of its facilities to allow for the construction or moving of buildings, use of machinery or in other similar circumstances. The expense of any such temporary removal or relocation shall be borne by the party requesting such action except when requested by the Borough, in which case the Company shall bear the costs.

(d) During the exercise of its rights and privileges under this franchise, the Company, upon notice to the Borough Clerk, emergency situations excepted, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the

Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 10. TECHNICAL AND CUSTOMER SERVICE STANDARDS. The Company shall comply with the technical and customer service standards established for the cable industry under applicable State and federal laws, rules and regulations.

SECTION 11. LOCAL OFFICE. During the term of this franchise, and any renewal thereof, the Company shall maintain a local business office or agent for the purpose of receiving, investigating, and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters as prescribed in N.J.S.A. 48:5A-26(d). Such local business office shall be open in no event less than 9:00 a.m. to 5:00 p.m. Monday through Friday, with the exception of Holidays.

SECTION 12. INSTALLATION OF SERVICES. The Company shall provide installation and service to any subscriber's residence within a reasonable time period under normal operating conditions in accordance with State and federal regulations.

SECTION 13. QUALITY OF SIGNAL. The Company agrees to provide quality signals in accordance with State and federal regulations.

SECTION 14. ALTERATION OF BASIC SERVICE. If required under federal Law, the Company shall not alter its basic service, including rate and channel changes, without prior notice to the Office of Cable Television and the Borough.

SECTION 15. ANNUAL SYSTEM STATUS REPORT. Upon request by the Borough, but no more than one time per year, a Company representative shall attend a Borough Council meeting to discuss any changes, improvements, new procedures or to answer any concerns the Borough may have with the provision of service in the Borough.

SECTION 16. DESIGNATION OF COMPLAINT OFFICER. The Office of Cable

Television is hereby designated as the complaint officer for the Borough pursuant to N.J.S.A. 48:5A-26. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 17. PERFORMANCE BOND. During the term of this franchise, and any renewal thereof, the Company shall obtain and maintain, at its sole cost and expense, a bond to the Borough in the amount of \$25,000.00. Such bond shall be to insure the faithful performance of all obligations of the Company as represented in its Application and herein.

SECTION 18. RATES. The rates of the Company shall be subject to regulation as permitted by State and federal law.

SECTION 19. FREE INSTALLATION AND SERVICE. The Company shall, subject to federal law and FCC rules and orders, provide free of charge, one (1) standard installation and monthly Basic cable television reception service to each of the following for the term of this franchise Ordinance: the Municipal Building, Department of Public Works, Kinnelon Free Public Library, Police Department, all Fire Department buildings, and all public and private accredited schools located within the municipality.

The Company shall, subject to federal law and FCC rules and orders, provide free of charge one (1) standard installation, one (1) cable modem per installation and basic cable modem service to each of the following for the term of this franchise Ordinance: the Municipal Building; the Kinnelon Free Public Library; and all public and private accredited schools located within the municipality.

This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

SECTION 20. SENIOR AND DISABLED DISCOUNTS. The Company voluntarily offers a discount for senior citizens meeting the eligibility requirements pursuant to the State's

Pharmaceutical Aid for the Aged and Disabled program.

SECTION 21. INSURANCE. The Company agrees to maintain and keep in full force and effect at its sole expense at all times during the term of this franchise, and any renewal thereof, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of \$1.5 million combined single limit for bodily injury or death to one person or resulting from any one accident and for property damage resulting from any one accident. The Company shall also provide workers compensation insurance at the State mandated limited. The Company will protect, defend, indemnify, and hold harmless, the Borough from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities arising out of or resulting from the operation, construction or maintenance of the cable system provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property including the loss of the use resulting therefrom and is caused in whole or in part by any negligent or willful act or omission of the Company.

SECTION 22. EMERGENCY USES AND SERVICES. The Company shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize reasonable and appropriate procedures for such emergency uses.

SECTION 23. LEVEL PLAYING FIELD. In the event that the Borough approves or permits a cable system to operate in the Borough on terms more favorable or less burdensome than those contained in this ordinance, then such more favorable or less burdensome terms shall be

applicable to this franchise, pursuant to approval of a petition to amend the Certificate of Approval filed with the Board as provided for under N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

SECTION 24. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS.

A. The Company shall continue to make available non-commercial public, educational and governmental ("PEG") access services available to the residents of the Borough as described in the Application for municipal consent. All of the Company's support for PEG access shall be for the exclusive benefit of the Company's subscribers.

B. The Borough agrees that the Company shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

C. The Company shall continue to provide and maintain access return lines at the Kinnelon High School Studio Facility (the "Borough Access Center"), for use by the Borough in the production of non-commercial PEG access programming on the cable system. The Company shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Ordinance.

D. The mechanism for scheduling use of the Borough's Access Center shall be established by the Kinnelon Board of Education with the advice and consent of the Borough. The policy and rules and regulations with regard to the operation of the Borough's Access Center and programming availability guidelines, including by way of example and not limitation, scope of announcements,

program schedule, use of facilities by various groups and organizations, advocacy of legislative, budgetary or other issues, equal time and fairness doctrines shall be established solely by the Borough. Such guidelines and policy shall be strictly applied to the operation of the Borough's Access Center by the Kinnelon Board of Education. All programming produced at the Borough's Access Center shall be of a non-commercial nature. Users of the Borough's Access Center shall comply with the Company's ("PEG") Guidelines to the extent applicable.

E. In consideration for the rights granted in this Ordinance, the Company shall provide the Borough with a PEG grant in the amount of Thirteen Thousand Dollars (\$13,000.00). The Company shall provide an initial grant payment of Four Thousand Dollars (\$4,000.00) within ninety (90) days of the issuance of the Certificate of Approval by the Board. The remaining grant of Nine Thousand Dollars (\$9,000.00) shall be provided in annual installments of One Thousand Dollars (\$1,000.00) upon written request by the Borough and shall be paid within ninety (90) days from receipt of the Borough's written request.

F. The Borough agrees that all grant amounts paid pursuant to this Section shall be used for by the Borough for any cable and/or other telecommunications related purpose and/or for the exclusive support of PEG access programming such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certificate of compliance with this Section 21(f).

G. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

SECTION 25. REQUEST FOR NON-FRANCHISED COMPETITIVE RELIEF. In the event that a non-franchised multi-channel video programmer provides service to residents of the

Borough that creates a significant competitive disadvantage to the Company, the Company shall have the right to request amendments to this franchise Ordinance and any Certificates of Approval that relieve the Company of regulatory burdens that create the unfair competitive disadvantage. In requesting amendments, the Company shall file with the Board a petition for approval seeking to amend this franchise Ordinance. Such petition shall: i) indicate the presence of a non-franchised competitor(s), ii) identify the basis for the Company's belief that certain provisions of the Certificate of Approval place the Company at a competitive disadvantage, and iii) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage.

Should the Company seek such amendments, the parties agree to negotiate in good faith as to appropriate changes to this franchise Ordinance and, if the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board to amend this franchise Ordinance pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. If the parties are unable to reach an agreement on the terms on the amendment to this franchise Ordinance, the Borough acknowledges that the Company shall still have the right to petition the Board for an amendment but the Borough shall have no obligation to support that petition or the Company's request for relief from the Board.

SECTION 26. REMOVAL OF FACILITIES. Upon the expiration, termination or revocation of this franchise Ordinance, the Company, at its sole cost and expense and upon the direction of the Borough, shall remove the cables and appurtenant constructed or maintained in connection with the services authorized herein, unless the Company, its affiliated entities or assigns, should, within six (6) months after such expiration, termination or revocation, obtain certification from the FCC to operate an Open Video System, or any other federal or state certification to provide telecommunication services. The Company shall seek approval from the Board prior to dismantling its cable system in the Borough.

SECTION 27. INCORPORATION OF APPLICATION. All of the commitments and statements contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application, any amendments thereto and any other relevant writings submitted by the Company are incorporated in this franchise Ordinance by reference and made a part hereof except to the extent they conflict with State or federal law.

SECTION 28. CONFLICTING PROVISIONS. In the event any portion of the Application or this Ordinance is in conflict with the provisions of the Cable Television Act (N.J.S.A. 48:5A-1, et seq.), the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), and/or F.C.C. Rules and Regulations (47 C.F.R. Section 76.1, et seq.), as amended, such portion shall not be construed as effective and shall be severable. The remainder of the Application and/or this Ordinance not so affected shall remain in full force and effect.

SECTION 29. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 30. INCONSISTENT ORDINANCES. Ordinances, resolutions, and regulations or parts of ordinances, resolutions, and regulations inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 31. NOTICE. Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective.

Notices to the Company shall be mailed to:

Altice USA
1 Court Square West, 49th Floor
Long island City, NY 11101
Attention: Senior Vice President for Government Affairs

With a copy to:

Cablevision of Oakland, LLC
c/o Altice USA
1 Court Square West
Long island City, NY 11101 Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Kinnelon
130 Kinnelon Road
Kinnelon, NJ 07405
Attention: Borough Clerk

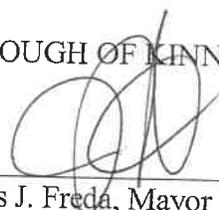
SECTION 32. EFFECTIVE DATE. This Ordinance shall take effect upon passage and publication according to law and the Company's written acceptance thereof within ten (10) days. If the Company does not accept the terms and conditions hereof, then the actions of the Borough and Company shall be governed by and subject to the provisions of the Act, the regulations related thereto and the actions of the Board and Office of Cable Television.

ATTEST:



Karen M. Iuele, Borough Clerk

BOROUGH OF KINNELON



James J. Freda, Mayor

