



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • TONY KLEPACZ, VICE MAYOR
BRUCE E. DUKE • JACQUE FISHER • BILL LAUTAR

KETTERING COUNCIL AGENDA

November 9, 2021

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Deeds Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

October 26, 2021- Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

Presentation Fire Department Citizenship Award

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

1. To amend the text of various sections of the City of Kettering Comprehensive Plan.
2. To amend the text of various sections of the City of Kettering Zoning Code.

RESOLUTIONS

3. Accepting the findings and recommendations of the Fact Finder in SERB Case No. 2020-MED-12-1405 and authorizing the City Manager to enter into an agreement with the Kettering Association of Dispatchers, consistent with those findings and recommendations or as modified by mutual agreement of the parties.

OR

Rejecting the findings and recommendations of the Fact Finder in SERB Case No. 2020-MED-12-1405, involving the City of Kettering and Kettering Association of Dispatchers.

4. Authorizing the City Manager to enter into a cost sharing agreement with the Board of Education of the Kettering City School District for School Resource Officers.
5. Authorizing the City Manager to contract with the Montgomery County Public Defender Commission and the Montgomery County Public Defender Office to provide mandated legal counsel to indigent persons appearing in the Kettering Municipal Court.
6. Accepting the material terms of the One Ohio Subdivision Settlement with Janssen Pharmaceuticals, Inc.
7. Authorizing the City Manager to contract for services with the Kettering Basketball Officials Association.
8. Authorizing the City Manager to use competitive bargaining and negotiated quotes to purchase fitness equipment for the Kettering Recreation Complex and the Kettering Fitness and Wellness Center.
9. To make supplemental appropriations for current expenses and other expenditures of the City of Kettering, State of Ohio, during the fiscal year ending December 31, 2021.

ORDINANCES IN FIRST READING

10. To amend Chapter 478 of the Codified Ordinances of the City of Kettering regarding shared mobility devices.

CERTIFICATIONS AND PETITIONS

MANAGER’S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2021

November 9	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
November 15	7:00 p.m. 7:00 p.m.	Planning Commission Board of Community Relations
November 22	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities
November 23	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting
November 25	All Day	Government Center Closed
November 26	All Day	Government Center Closed

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO AMEND THE TEXT OF VARIOUS SECTIONS OF THE CITY OF KETTERING COMPREHENSIVE PLAN

WHEREAS, on September 20, 2021, after giving the required notice, the City of Kettering Planning Commission conducted a public hearing regarding an application to amend the Comprehensive Plan in Planning Commission Case No. PC-21-016; and

WHEREAS, after the public hearing, the Kettering Planning Commission voted to recommend that City Council approve the proposed amendments; and

WHEREAS, on October 12, 2021, after giving the required notice, this City Council held a public hearing regarding the Kettering Planning Commission's recommendation;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio that:

Section 1. Having considered the application, the staff report(s) and recommendation of the Planning Commission, the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code, and the testimony and evidence presented at the public hearing, City Council finds that the application to amend the Comprehensive Plan should be approved. Therefore, the amendment(s) to the Comprehensive Plan shown on Exhibit A, attached hereto and incorporated herein, are hereby approved.

Section 2. The Planning and Development Director of this City shall prepare a revised version of the Comprehensive Plan to reflect and properly incorporate the amendment(s).

Section 3. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL:

LASHAUNAH D. KACZYNSKI, Clerk of Council

THEODORE A. HAMER III, Law Director

(Requested by: Planning and Development Department)

EXHIBIT A


(2 Total Pages Including This Page)

NOTE: In order to conserve space, only those portions of the Comprehensive Plan to be amended are shown.

Key to Proposed City of Kettering Comprehensive Plan Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text



Category	Recommended Uses	Design Characteristics
Higher-Density Residential	Townhouses and small lot single-family uses	<ul style="list-style-type: none"> ▶ Pedestrian-oriented residential roads ▶ Linked to adjacent neighborhoods and shopping via streets with sidewalks ▶ Follows architectural guidelines and building massing ▶ Open space in the form of squares and parks
Low-Density Residential	Single-family attached and detached and religious	 <ul style="list-style-type: none"> ▶ Larger building lots ▶ Pedestrian-oriented streetscape ▶ Linked to adjacent neighborhoods and shopping via streets with sidewalks ▶ Open space in the form of parks, playgrounds, and greenways
Professional Office and Research	Professional office and research facilities with multi-use support retail and high density housing.	<ul style="list-style-type: none"> ▶ Follows architectural and building massing guidelines ▶ Clean industry ▶ Located on a primary thoroughfare ▶ Transit access ▶ Open space in the form of squares, plazas, and quadrangles
Parks/ Recreation	Parks	<ul style="list-style-type: none"> ▶ Active and passive recreation facilities ▶ Open space ▶ Greenways ▶ Neighborhood and community scale parks
Institutional/ Civic	Schools, libraries, large religious institutions	<ul style="list-style-type: none"> ▶ No architectural guidelines ▶ Scattered throughout the city to be close to residents

Category	Recommended Uses	Design Characteristics
Industrial	Manufacturing uses	<ul style="list-style-type: none"> ▶ Clean industries ▶ Located on major thoroughfares and rail lines with easy and efficient transportation access ▶ Minimize environmental impacts ▶ Reuse of existing structures/areas encouraged
Commercial Recreation	Golf courses	<ul style="list-style-type: none"> ▶ Transitional land use

EXHIBIT A - Proposed Change to the Professional Office and Research Land Use Category

PC-21-016

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO AMEND THE TEXT OF VARIOUS SECTIONS OF THE CITY OF KETTERING ZONING CODE

WHEREAS, on September 20, 2021, after giving the required notice, the City of Kettering Planning Commission conducted a public hearing regarding an application to amend the text of various sections of the Zoning Code in Planning Commission Case No. PC-21-015; and

WHEREAS, after the public hearing, the Kettering Planning Commission voted to recommend that City Council approve the proposed amendments; and

WHEREAS, on October 12, 2021, after giving the required notice, this City Council held a public hearing regarding the Kettering Planning Commission's recommendation;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio that:

Section 1. Having considered the application, the staff report(s) and recommendation of the Planning Commission, the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code, and the testimony and evidence presented at the public hearing, City Council finds that the application to amend the Zoning Code should be approved. Therefore, the amendment(s) to the Zoning Code shown on Exhibit A, attached hereto and incorporated herein, are hereby approved.

Section 2. The Planning and Development Director of this City shall prepare a revised version of the Zoning Code to reflect and properly incorporate the amendment(s).

Section 3. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL:

LASHAUNAH D. KACZYNSKI, Clerk of Council

THEODORE A. HAMER III, Law Director

(Requested by: Planning and Development Department)

EXHIBIT A

(17 Total Pages Including This Page)

NOTE: In order to conserve space, only those portions of the Zoning Code to be amended are shown.

Key to Proposed City of Kettering Zoning Code Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

CHAPTER 1135 ZONING DISTRICTS

1135.01 MINIMUM LOT AREA & FRONTAGE

Dimensional requirements for the Zoning Districts established in Section 1133.01.A, District Classifications Created are as shown in TABLE 35.1 MINIMUM DIMENSIONS, Section 1135.01.1. This table compiles requirements regarding Minimum Lot Area and Minimum Lot Frontage according to Zoning District.

1135.01.1 TABLE 35.1 - MINIMUM DIMENSIONS

District & Use		Minimum Lot Area	Minimum Lot Frontage
R-E(a)		40,000 sf	135'
R-E(b)		20,000 sf	100'
R-1		12,500 sf	80'
R-2	Single Unit	7,500 sf	60'
R-2	Duplex	9,000 sf	70'
R-3	Single Unit	7,200 sf	60'
R-3	Duplex	9,000 sf	70'
R-3	3-4 Units	3,600 sf per dwelling unit	80'
R-4	Single Unit	7,200 sf	60'
R-4	Duplex Unit	8,500 sf	60'
R-4	3 Units or more	2,100 sf per dwelling unit with a minimum lot area of 10,000 sf	75'
O		10,000 sf	60'
B		no minimum	no minimum
BP		no minimum	no minimum
CC		Varies	Varies
IS		Varies	Varies

TIP

Zoning Districts regulate:

1. Uses
2. Minimum Lot Area
3. Minimum Lot Frontage

Regulations regarding Uses may be found in Standards for Specific Uses, immediately following the Permitted Principal Use Table.

TIP

Certain specific uses require Minimum Lot Areas that may differ from those found in Table 35.1 Minimum Dimensions.

Refer to Chapter 1137, Standards for Specific Uses to verify your required Minimum Lot Area.

1135.01.2 MINIMUM LOT AREA EXCEPTION - LOTS OF RECORD

See Section 1155.06, Nonconforming Lot.

1135.01.3 FLAG LOTS

This Section provides standards for the subdivision of large lots with existing homes to encourage new infill housing development in the community. In many cases, the size of these lots are sufficient to accommodate lot splits, but the shape of the lot or the topography make this infeasible

1135.02.3 TABLE 35.2 - PERMITTED PRINCIPAL USES

1. RESIDENTIAL	R-E(a)	R-E(b)	R-1	R-2	R-3	R-4	Office	Business	Business Park	Community Center	Institutional
Single Unit Detached	■	■	■	■	■	■	□	□			■
Single Unit Attached, Townhouse		□	□	□	■	■	□	□			■
Two Unit Attached, Duplex				■	■	■	□	□			■
Multi-Unit 3-12 Units*				■	■	■	■	■			□
Multi-Unit 13-Plus Units						■	■	■	□	□	
Live / Work*				□	□	□	■	■			
Care Facilities*					□	□	□	□		□	□
Corporate Guesthouse	□	□	□	□	□	□	□			□	

2. LODGING

Bed & Breakfast*	□	□	□	□	□	□	■	■		□	
Hotel*							□	■	□		
Motel*								□			
Corporate Retreat Center*	□	□					□	□	□	□	

3. OFFICE

Animal Hospital & Clinic*							□	□	□		
Business, Professional & Administrative							■	■	■	□	
Alternative Medicine Office & Clinic							■	■	■	□	
Medical Office & Clinic							■	■	■	□	
Technical Repair*							□	■	■	□	
Work / Live*							■	■	□		

- PERMITTED USE
- PERMITTED CONDITIONAL USE
- * ADDITIONAL STANDARDS APPLY - SEE CHAPTER 1137

TIP

Accessory Uses (which are different from Principal Permitted Uses) are found in 1139 Accessory Uses and Structures

Accessory Uses and Structures include such items as garages, fences, sheds, and pools as well as the keeping of animals, home occupations, and garage sales.

TIP

Principal Uses are the primary uses of the land or of the improvements on the land.

Permitted Conditional Uses are principal uses that are permitted once certain conditions have been met.

Permitted Conditional Uses require a Conditional Use Permit. See 1153.08 Conditional Use Approvals.

1135.02.3 TABLE 35.2 - PERMITTED PRINCIPAL USES - CONTINUED

4. COMMERCIAL - continued	R-E(a)	R-E(b)	R-1	R-2	R-3	R-4	Office	Business	Business Park	Community Center	Institutional
Kiosks*								<input type="checkbox"/>			
Pawn Shops*								<input type="checkbox"/>			
Pet Stores								■			
Personal Services								■	<input type="checkbox"/>		
Pharmacies								■			
Plant Nurseries									■		
Restaurants*								■	<input type="checkbox"/>	<input type="checkbox"/>	
Sexually Oriented Business*									<input type="checkbox"/>		
Specialty Retail								■	<input type="checkbox"/>	<input type="checkbox"/>	
Tattoo Parlors*								■			
Used Merchandise & Thrift Stores								■			
Vehicle Fueling, Recharging*								■	<input type="checkbox"/>		
Vehicle Rental & Service*								■	<input type="checkbox"/>		
Vehicle Sales & Service*								■	<input type="checkbox"/>		
Weapon Sales*								■			

5. CIVIC

Amphitheater, Stadiums*				<input type="checkbox"/>				■		<input type="checkbox"/>	
Arenas, Auditoriums, Concert Halls*				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	■	<input type="checkbox"/>	<input type="checkbox"/>	
Art Gallery, Arts Center								■	■	<input type="checkbox"/>	■
Cemetery*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>
Commercial Schools & Studios						<input type="checkbox"/>	■	■	<input type="checkbox"/>		
Communication Towers*								<input type="checkbox"/>	<input type="checkbox"/>		
Community Recreation Center*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
Conference, Meeting & Banquet Center*								<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Convention Center*								<input type="checkbox"/>	<input type="checkbox"/>		

■ PERMITTED USE

PERMITTED CONDITIONAL USE

* ADDITIONAL STANDARDS APPLY - SEE CHAPTER 1137

CHAPTER 1137
STANDARDS FOR SPECIFIC USES

1137.01	GENERAL	1137.06.3	Cemeteries
1137.01.1	Purpose and Intent	1137.06.4	Communications Towers
1137.01.2	Compliance Mandatory	1137.06.4.N	Table 37.1 - Communications Towers
1137.01.3	Standards Supplement Other Code Regulations	1137.06.5	Community & Recreation Centers
1137.02	RESIDENTIAL STANDARDS	1137.06.6	Conference, Meeting or Banquet Centers, Convention Centers
1137.02.1	Multi-Unit 3-12 Units	1137.06.7	Day Care Centers, Child and/or Adult
1137.02.2	Care Facilities	1137.06.8	Educational Institutions
<u>1137.02.2</u>	<u>Multi-Unit 13-Plus</u>	1137.06.9	Fountains, Public Plazas, Parks, & Natural Areas
1137.02.3	Live / Work	1137.06.10	Funeral Homes, Mortuaries
<u>1137.02.3</u>	<u>Care Facilities</u>	1137.06.11	Golf Courses, Membership Clubs, & Associations
<u>1137.02.4</u>	<u>Live / Work</u>	1137.06.12	Governmental Facilities (Post Offices, Police and Fire Houses)
1137.03	LODGING STANDARDS	1137.06.13	Hospitals
1137.03.1	Bed & Breakfast	1137.06.14	Libraries, Museums
1137.03.2	Hotels & Motels	1137.06.15	Parking Structures
1137.03.3	Corporate Retreat Center	1137.06.16	Places of Worship
1137.04	OFFICE STANDARDS	1137.06.17	Public Transit Stations
1137.04.1	Animal Hospital & Clinics	1137.06.18	Surface Parking Lot
1137.04.2	Technical Repairs	1137.07	INDUSTRIAL STANDARDS
1137.04.3	Work / Live	1137.07.1	General
1137.05	COMMERCIAL STANDARDS	1137.07.2	Commercial Bakeries, Non-Retail Laundries & Dry Cleaning Plants, Printing, Publishing, Lithography & Binding, Product Assembly, Self & Mini Storage, Warehousing & Distribution, Wholesale Sales & Supply Houses
1137.05.1	Tobacco, Nicotine, or Vaping Sales	1137.07.3	Electric Substations
1137.05.2	Animal Care, Grooming	1137.07.4	Energy Conversion, Solar & Wind
1137.05.3	ATM, Standalone	1137.07.5	Fabrication, Industrial Crafts
1137.05.4	Automobile Service, Repairs & Modifications	1137.07.6	Laboratory or Specialized Facility, Research and Development
1137.05.5	Automobile Washing	1137.07.7	Manufacturing, Process Plant
1137.05.6	Banks, Credit Unions	1137.07.8	Public Service Yards, Storage Yards (Contractor, Building Materials, & Outdoor Merchandise)
1137.05.7	Bar, Lounge, Tavern, Nightclub	1137.07.9	Recycling Facility
1137.05.8	Big Box Stores	1137.07.10	Vehicle Storage, Indoor & Outdoor
1137.05.9	Check Cashing, Payday Loans, Pawn Shops	1137.08	TEMPORARY USE STANDARDS
1137.05.10	Convenience, Drive-Thru Stores		
1137.05.11	Equipment Rental, Sales & Service		
1137.05.12	Gaming		
1137.05.13	Kennels		
1137.05.14	Kiosks		
1137.05.15	Restaurants		
1137.05.16	Sexually Oriented Businesses		
1137.05.17	Tattoo Parlors		
1137.05.18	Vehicle Sales & Service, Vehicle Rental & Service		
1137.05.19	Vehicle Fueling, Recharging		
1137.05.20	Weapons Sales		
1137.06	CIVIC STANDARDS		
1137.06.1	Amphitheaters, Drive-in Movie Theatres, Stadiums		
1137.06.2	Arenas, Auditoriums, Concert Halls, Movie Theatres & Performance Theatres		

1137.02.1 MULTI-UNIT 13-PLUS UNITS

Multi-Unit 13-Plus dwellings are permitted as conditional uses within the BP district subject to the following conditions:

- A. Such multi-unit dwellings shall be located on lots of at least 10 acres in area and shall contain at least 200 dwelling units.
- B. If such a use is located within a district where it is permitted as a conditional use, as listed in TABLE 35.2 PERMITTED PRINCIPAL USES, SECTION 1135.02.3 then a Conditional Use Permit must be obtained as specified in Section 1153.08, Conditional Use Approvals.

1137.02.2**1137.02.3****CARE FACILITIES**

Care Facilities are permitted as conditional uses subject to the following conditions:

- A. The applicant shall submit the following information in written form:
 - 1. The maximum number of residents, employees, and occupants. The totals for each category shall be provided.
 - 2. A detailed plan of services and programs to be offered to the clientele of the facility, including the nature of care to be provided, the types of services to be offered, and the individuals or agencies who will be responsible for administering such care and services.
- B. Every room occupied for sleeping purposes within the Care Facility shall adhere to the occupancy limitations of the Kettering Property Maintenance Code.
- C. The Care Facility shall provide suitable outdoor recreation open space for the number and needs of residents of the Care Facility.
- D. All Care Facilities shall be compatible in design with the surrounding neighborhood. If the property borders both commercially used and residentially used property, the residentially used property shall take precedence in regards to this standard.
- E. The proposed use of the site will be compatible with the present physical character of the neighborhood and will not disrupt the neighborhood from the standpoint of noise, lights, congestion, or traffic generation. If the property borders both commercially used and residentially used property, the residentially used property shall take precedence in regards to this standard.
- F. Notwithstanding any other requirements or conditions that must be satisfied for conditional use approval of a care facility, the Planning Commission must find that each of the items listed below have been met. In its review of each proposed Care Facility, and in addition to Section 1153.08, Conditional Use Approvals, the Planning Commission shall make a written finding as to whether or not all of the following conditions are met:
 - 1. The care facility has sufficient controls, which can be exercised to insure continued compliance to the provisions of this Section.

2. The care facility will be designed, adapted, constructed, operated, and maintained to be compatible with the existing or officially planned uses of the general vicinity.
3. The facility will promote the public health, care, safety, or general welfare of the community.

4437.02.2**1137.02.4****LIVE / WORK**

Live / Work uses are permitted as conditional uses subject to the following conditions:

- A. No more than 40% of the residential unit's Gross Floor Area is available as work space and the living and working quarters shall function together as a single unit.
- B. The permittee for a live/work use shall obtain a use permit from the City of Kettering for the intended business.
- C. Customers, clients, or prospective customers or clients shall be invited to the residence by appointment only. The business shall not involve the on-site presence of more than two customers or clients at a time. Customers or clients shall only be permitted on the premises between the hours of 8 A.M. and 6:00 P.M.
- D. The workers and residents shall neither interfere with nor impair the uses of the surrounding area.
- E. The workers and residents shall not be subject to or cause unreasonable noise, odors, vibration, traffic, or other potentially harmful environmental conditions.
- F. The appearance of any structure where such a use is located shall maintain its residential character. Signs are permitted subject to the provisions of Chapter 1151, Signs.
- G. Such uses shall adjoin a thoroughfare or arterial street. Ingress and egress shall be from a thoroughfare or arterial street. Such uses shall be located within city blocks that include property zoned B-Business and shall be on the same side of the street of such property zoned B-Business.
- H. The work component of the use shall be limited to the following:
 1. Business, Professional, and Administrative Offices;
 2. Alternative Medicine Office & Clinic;
 3. Art Studios;
 4. Personal Instruction;
 5. Physical Therapy;
 6. Medical Office & Clinic;
 7. Other uses of a similar nature that would have a low number of appointments per day,

TIP

Some examples of thoroughfares within Kettering that have B districts somewhere along their length include: Wilmington Pike, Dorothy Lane, Stroop Road and Woodman Drive.

1137.05.15 RESTAURANTS

A. Restaurant establishments with drive-in or drive-thru facilities are permitted subject to the following conditions:

A 1. Restaurant establishments shall not contribute to an undue proliferation of such uses in an area where additional restaurants would be undesirable considering the area's function and character, traffic problems, and traffic capacity.

B 2. Such establishments shall not interfere with the movement of people along pedestrian or active transportation ways, such as jogging paths or bikeways.

C 3. Such establishments shall be located on lots with a minimum lot area of 20,000 square feet.

D 4. Loud speaker systems shall be subject to approval by the Zoning Administrator and shall not create a nuisance for adjacent properties. See also Section 1143.06, Noise.

E 5. The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site.

F 6. Such establishments shall provide 8 stacking spaces for each transaction location. Said stacking spaces shall not block or otherwise interfere with site circulation patterns.

G 7. Such establishments shall provide litter receptacles of an appropriate number and location to adequately handle the volume and frequency of trash generated by customers, as determined by the Zoning Administrator.

H 8. Such establishments within 150' of residentially used property, shall be limited in hours of operation, or shall be designed or operated to avoid disruption of such residential use(s) between the hours of 10:00 P.M. and 7:00 A.M.

I 9. Drive-in or drive-through windows and lanes shall be located at least 50' from any residentially used property. All principal and accessory structures shall be set back at least 25' from any residentially used property.

J 10. A finished masonry wall that is 6' in height shall be provided along any property line of such an establishment adjoining a residentially used property. This requirement is in addition to any bufferyard, screening, or landscaping requirements.

K 11. Dumpsters and dumpster locations containing food waste shall be located at least 40' from any residentially used property, excluding multi-unit dwellings located within TC and NC pattern districts, and shall not occupy any required bufferyard.

L 12. Vehicular access shall be on to such adjoining street as may be determined by the Zoning Administrator. The decision of the Zoning Administrator shall be based on the following standards:

1 a. No additional or unreasonable traffic hazards shall be created by such access;

2 b. The access is not to create such an increase in traffic volume through a residential neighborhood, compared to traffic resulting from such a use but without that access, as to

create a significant adverse impact upon the value of adjacent or nearby property.

B. Restaurant establishments conditionally permitted within the Business Park district shall be located on lots of at least 10 acres in area and shall be no larger than 10,000 square feet in gross floor area with an aggregate of no more than 20,000 square feet in gross floor area for the entire Site.

M C. If such a use is located within a district where it is permitted as a conditional use, as listed in TABLE 35.2 PERMITTED PRINCIPAL USES, SECTION 1135.02.3 then a Conditional Use Permit must be obtained as specified in Section 1153.08, Conditional Use Approvals.

1137.05.16 SEXUALLY ORIENTED BUSINESSES

Sexually Oriented Business establishments are permitted as a conditional use subject to the following conditions:

- A. Sexually oriented businesses shall not be located within 400' of any type of residential property.
- B. Sexually oriented businesses shall not be located within 1,000' of:
 1. a school, library or teaching facility, whether public or private, governmental or commercial, that is attended by persons under 18 years of age;
 2. a day care center, or care facility;
 3. a public park or recreational area that has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City;
 4. a church, synagogue, or building that is used primarily for religious worship and related religious activities;
 5. an entertainment business that is oriented primarily towards persons under 18 years of age or oriented primarily towards persons under 18 years of age and their parents/guardians.
 6. any other sexually oriented business; or
 7. any establishment licensed for the sale of alcoholic beverages for consumption on the premises.
- C. A sexually oriented business shall neither be operated, established, or maintained within the same building, structure, or portion thereof of another sexually oriented business, nor shall there be an increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- D. For the purposes of this Section, distances shall be measured in a straight line, without regard to intervening structures, from the closest property line of the sexually oriented business to the

which it is located and shall be limited to 4' in depth. Ornamental Ponds with a depth greater than 18" shall not have a slope greater than 300% and shall be required to have safety ledges, with a minimum tread depth of 1', installed for every 1' of depth. Ornamental Ponds shall be located in side or rear yards only.

- D. Fountains and other Water Features shall not exceed 12" in water depth and shall not exceed 2% of the total front yard area or 1% of the total lot area. Fountains and other Water Features shall be located at least 15' from any public or private street and shall be located at least 5' from any alleyway. Such features greater than 6' in height shall not be located in any front yard.
- E. Retention ponds and other large ponds not specifically permitted above, shall be permitted as a conditional use in all R and BP districts, subject to drainage and grading requirements, impacts to viewsheds, and neighborhood character and context.

1139.03.12 FLAG POLES

Flag Poles are permitted subject to the following conditions:

- A. Flag poles are permitted in all yards.
- B. Flag poles shall be limited to 25' in height within residential districts. Height shall be measured from the lowest adjoining grade for the pole or the lowest adjoining grade for the building to which it is mounted. Flag poles attached or mounted on buildings shall be limited to these same height limitations. No flag pole shall be attached to the roof of a building.
- C. The fall zone of any pole must not encompass any neighboring structures or lie outside of the property where it is located.
- D. Flag poles shall be limited in number to one pole per lot .

1139.03.13 TEMPORARY PORTABLE STORAGE CONTAINERS

Temporary Portable Storage Containers are permitted subject to the following conditions:

- A. Such containers, including but not limited to, portable on-demand containers, shall be limited to 1 in number per residential Principal Structure and two in number per non-residential Principal Structure.
- B. The maximum dimensions for such containers shall be 10' in height, 8' in width, and 18' in length.
- C. Such containers shall be allowed to occupy a residential lot or Site for a maximum of 14 days during any 6 month period. If placed in conjunction with an active building permit for building new construction, remodeling existing buildings, or in conjunction with the restoration of a property or the mitigation to prevent further damage to the property, a longer period of time may be approved by the Zoning Administrator.
- D. Such containers shall be placed solely upon driveways or other hard surfaces.

1143.05.5 TABLE 43.1 - DRIVEWAY WIDTH RESTRICTIONS

This table lists the maximum driveway width expressed as a percentage of lot frontage:

Zoning District	Maximum Width as % of Lot Frontage
R-Ea, R-Eb	25%
R-1, R-2, R-3, R-4	30%
CC, O, B, I, BP, IS	NA

Key: NA - Not Applicable

1143.05.6 CROSS ACCESS

All lots that elect to provide a cross access connection between adjoining parking lots to allow for the flow of traffic from one parking lot to another without re-entering the public right-of-way must provide an access drive that is at least 22' feet in width and shall not slope greater than 15%.

The applicant may grant a common access easement across the lot or a recorded deed covenant providing common access across the lot with the abutting lot or lots.

Additionally, all lots that elect to provide such cross access shall be entitled to a 20% reduction in the number of required bufferyard plantings along the property line(s) that the cross access traverses, and a waiver of the dead end parking standards found within Section 1145.05.1.D.

1143.05.7 LOCATION OF DRIVEWAYS

Driveways and Access Drives shall be located subject to the following conditions:

- A. Driveways shall not conflict with vehicle turning movements.
- B. Driveways shall align with opposing driveway approaches, if any are present. Locations where there is a raised median separating said approaches shall be exempt from this provision.
- C. Driveways shall align with the existing median opening, if any is present.
- D. Driveways shall be separated in accordance with the standards listed in TABLE 43.2 - DRIVEWAY SEPARATION STANDARDS, Section 1143.05.8.
- E. Access drives shall maintain a minimum 5' setback from any property line.
- F. If the site is served by an alley or rear access drive, an access for motor vehicles must be provided from such alley or rear access drive.

1143.07.15 UNIFORMITY

All exterior lighting located in R-3, R-4, CC, O, IS, B, and FBP districts or all exterior lighting utilized in conjunction with a Conditional Use for an R district, shall not exceed an Average to Minimum Uniformity Ratio of 4:1 and a Maximum to Minimum Ratio of 10:1 as defined by the most recent edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook. The site area used to perform this calculation shall be comprised of improved area only, excluding building footprint and perimeter landscaped and bufferyard areas.

The Zoning Administrator may vary this standard depending on the task or use of the lighted area, provided that the lighting ratio meets the standards for such task or use as provided by the most recent edition of the IESNA Lighting Handbook.

Public Parks and Natural Areas shall be exempt from this requirement.

TIP

The IESNA recommends average to minimum uniformity ranges from 5:1 down to 2:1 depending upon application. Streets can have a 5:1 while competitive sports fields utilize a 2.5:1

1143.07.16 CONTROL OF OPERATIONAL LIGHT & GLARE

Any use producing intense light or heat, including high temperature processes such as combustion and welding shall be performed within an enclosed building and not be visible beyond any lot line surrounding the property where the use is conducted. Welding that is required for exterior construction or maintenance of a principal structure located on a lot shall be exempt from the standards contained within this section.

1143.07.17 LIGHT TRESPASS

All luminaires shall be located, aimed, or shielded to prevent light from trespassing across property boundaries. Light originating on a site shall not exceed 0.1 foot-candles at any property line of said site.

1143.07.18 OUTDOOR ADVERTISING SIGNS

External illumination for signs shall conform to all provisions of this Chapter.

1143.07.19 INTERNALLY ILLUMINATED AND NEON SIGNS

Internally illuminated signage, neon or other similar tube type lighting shall be subject to the following conditions:

- A. Outdoor internally-illuminated advertising signs be constructed with an opaque background and translucent text and symbols. Such signs shall not be factored into the calculation of the AHMI found in Section 1143.07.11.
- B. Neon or other similar tube type signs shall be treated as internally illuminated signs for the purposes of this Chapter, and shall not be factored into the calculation of the AHMI found in Section 1143.07.11. However, neon or other similar tube type lighting shall conform to all provisions of this Code. In particular, such lighting shall be factored into the calculation of the AHMI found in Section 1143.07.11.

1147.13.2 TREE PROTECTION ZONE

For purposes of this Section, a "tree protection zone" is established for any lot or parcel that has a woodland coverage. The tree protection zone includes all woodland areas within the required setbacks and outside of the designated building envelopes. The percentage of protected trees that must be preserved within the tree protection zone is established in TABLE 47.6 - PERCENTAGE OF PROTECTED TREES REQUIRING PRESERVATION, Section 1147.13.3.

1147.13.3 TABLE 47.6 - PERCENTAGE OF PROTECTED TREES REQUIRING PRESERVATION

This table assembles the required percentages of trees that must be protected within a Tree Protection Zone depending upon the Protection Zone's location:

Protection Zone Location	Preservation Ratio (Percent of Tree Protection Zone Category)
Lots within R and CC districts	35%
Lots within B, O, I <u>BP</u> and IS districts	20%
Lots within B, O, or I <u>BP</u> districts with a TC or NC designation	Exempt

1147.13.4 PROTECTED TREES

For purposes of this section, a "protected tree" means any large tree, other than any variety of Ash tree susceptible to the Emerald Ash Borer, that is equal to or larger than 8 inch diameter breast height (DBH).

1147.13.5 PRESERVATION STANDARDS

No grading, demolition, trenching, or other activity that may adversely affect trees within a Tree Protection Zone may proceed prior to approval and issuance of necessary development approvals by the City of Kettering. No person shall perform construction work (including the operation or storage of equipment or materials) within the drip line of any tree or shrub having its trunk on any public street or public property without first obtaining a development approval from the Zoning Administrator and complying with the requirements as described in Section 1147.13.6, Protective Barriers through 1147.13.9 Replacement of this Chapter.

1147.13.6 PROTECTIVE BARRIERS

The applicant shall erect protective barriers as follows:

- A. Protective barriers shall be installed around each protected tree or group of protected trees that are designated for protection.
- B. Barriers shall not be supported by the plants they are protecting but shall be self-supporting.

struction methods for such signage.

Examples of commonly found materials include cardboard, painted plywood, coroplast, rigid plastic sheet, metal sheet, vinyl or cotton canvas fabric, and static cling decals.

Examples of commonly accepted construction methods include metal frames, wire "H" frames, wood posts, and paint or static cling decals on glass windows.

- D. Temporary signs shall be legible, neat, and professional in appearance.
- E. No temporary signs shall be attached to light poles, luminaires, fixtures, mechanical equipment, fences, dumpsters, or landscaping. No temporary signs shall be attached to any permanent sign or sign base.
- F. Within the R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts the only types of temporary signs that are permitted are ground signs, window signs, and wall banners. All other types are prohibited. The maximum area and height, the minimum setback from the Right-of-Way, and the permitted number of such signs shall be as listed within Table 51.4 - Temporary Sign Requirements, Section 1151.04.10.K
- G. Within the O, B, BP, CC, and IS districts the only types of temporary signs that are permitted are ground signs, window signs, and wall banners. All other types are prohibited. The maximum area and height, the minimum setback from the Right-of-Way, and the permitted number of such signs shall be as listed within Table 51.4 - Temporary Sign Requirements, Section 1151.04.10.K
- H. Temporary ground signs shall be located in landscaped areas only, subject to the following conditions:
 - 1. The landscaped area shall include all points where sign structural supports attach to the ground.
 - 2. The edge of the required landscaped area shall be thirty inches from the edge of the sign or any edge of the sign structure.
 - 3. The use of concrete, asphalt, stone, or any other paved surface inside the required landscaped area beneath the sign shall be prohibited.
- I. Temporary wall banner signs shall not extend more than 6 inches from any wall or structure upon which they are erected.
- J. Walls signs and banners shall not be attached to any roof or roof element and must be a minimum of 2 feet below the top and a minimum of 2 feet from the side of the surface to which they are attached.

1151.04.11 VACANCIES AND SITES UNDER CONSTRUCTION

Vacant lots, buildings, and building units, and Sites under construction with an active and valid permit for such construction are permitted signage subject to the following standards:

- A. Vacant lots or vacant buildings, and such Sites under construction are permitted a single ground sign per street frontage subject to the following standards:
 1. Within CC, O, B, BP and IS districts, and upon lots greater than 2 acres located within R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts, such a sign shall be limited to 16 square feet in sign area. Upon lots equal to or less than 2 acres in area located within R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts such a sign shall be limited to 6 square feet in area.
 2. Such a sign shall be limited to 6 feet in height within CC, O, B, BP and IS districts, and upon lots greater than 2 acres located within R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts. Such a sign shall be limited to 4 feet in height upon lots equal to or less than 2 acres in area located within R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts.
- B. Vacant building units and building units under construction are permitted window signage in accordance with the standards found in Section 1151.04.8, Window Signs. If no window is present to allow for such signage, then a single ground sign is permitted subject to the following standards:
 1. Such a sign shall be limited to 6 square feet in sign area.
 2. Such a sign shall be limited to 4 feet in height.
- C. Ground signs permitted within subsections A and B above shall be subject to the following standards:
 1. Such signs shall be set back at least 10 feet from every right-of-way line, and at least 20 feet from any side or rear lot line.
 2. Within CC, O, B, BP and IS districts, and upon lots greater than 2 acres located within R-E(a), R-E(b), R-1, R-2, R-3, and R-4 districts such signs shall be constructed using wooden posts painted white, and a rectangular or square plywood, metal, or plastic sign face(s).
 3. Such signs shall be placed within a landscape area and shall be constructed and placed in such a manner that allows them to be easily removed from the site, similar to a temporary sign. Posts shall not be cemented into place.
- D. Such signs shall not be illuminated.
- E. Such signs shall not have any changeable copy.
- F. Once an application for a use, conditional use, or development approval is approved, or once a lot, building, or building unit is occupied and no longer vacant such signs shall be removed from the vacant lot, building, building unit, or Site.

1151.04.12 ADDITIONAL SIGNAGE

- A. Sites which have a one-way pattern of circulation and take access from a non-residential street are permitted signage subject to the following standards:
1. Each access point shall be permitted a single sign located no further than 10' from the edge of pavement of such access point;
 2. Within CC, O, B, †BP, and IS districts and for Civic conditional uses in all R districts, such a sign shall be limited to 2 square feet in sign area. Such signs located elsewhere shall be limited to 1 square feet in sign area.
 3. Such signs shall be limited to 3' in height.
 4. Such signs shall meet the landscaping standards for ground signs. See Section 1151.04.4, Ground Signs.
 5. Such signs shall not have any changeable copy.
- B. Residential properties currently listed for sale with the Dayton Area Board of Realtors Multiple Listing Service, shall be permitted 1 additional temporary sign which shall be exempt from the duration requirements found within Table 51.4 - Temporary Sign Requirements, Section 1151.04.10.K
- C. Non-residential Sites which have at least 8 waiting spaces and a drive-thru window for transactions shall be permitted 2 signs per drive-thru lane with each sign located adjoining such drive-thru lane. Such signs shall be viewable to the drive-thru lane and shall not face the public Right-of-Way. Such signs shall be limited to 24 square feet and 6' in height. Such signs shall be setback from the public Right-of-Way by at least 5' within TC and NC development pattern districts and at least 20' when located elsewhere. Such signs may display electronic changeable copy subject to the following standards:
1. Such signs shall not contain copy which may be discernable to the naked eye from the Right-of-Way;
 2. If such signs are visible from the Right-of-Way, screening shall be provided to obscure such visibility to an opacity of at least 70%;
 3. Such signs shall be exempt from Section 1151.05.1, Electronic Changeable Copy, items A, B, C, D, and F. All other items shall apply.

1151.04.13 CAMPUS AND LARGE SITE SIGNAGE

A Campus or individual parcel of at least 30 acres in lot area and having at least 200,000 square feet of non-residential gross floor area shall be permitted signage according to the standards found below and within Table 51.5 - Campus and Large Site Signage:

- A. Building Signs displayed higher than a second story and which are adjacent to and face a residential property shall be illuminated according to the following:

Tip

Primary Access Drives would be considered the main entrance to a Campus.

Major Access Drives serve a larger scale principal building within the Campus and Minor Access Drives serve accessory building or functions.

1. Prior to making a recommendation to the City Council on a proposed map amendment, the Planning Commission shall make a finding to determine if the following conditions exist. No map amendment shall be recommended for approval prior to a specific and documented finding of at least one of the following:
 - a. The proposed amendment is consistent with the City of Kettering's Comprehensive Plan and with the intent of this Zoning Code, or such consistency is being sought concurrently.
 - b. There has been a change in demand for land that alters the information upon which the Official Zoning Map is based, as a result of:
 - i. A change in population, consumer preference, economic indicator, or other socio-economic trends;
 - ii. A significant change in area or neighborhood conditions, building conditions, or traffic volumes; or
 - iii. A major change, such as the construction of a major road, the installation of a utility line, or other similar factor that significantly alters the area.
 - c. A study commissioned or conducted by City Staff indicates that there has been an increase in the demand for land in the requested zoning classification, and as a result the supply of land within the City of Kettering mapped as such on the Official Zoning Map or Official Development Pattern Map, is inadequate to meet the demands for such development.
 - d. The proposed use cannot be accommodated by sites already zoned in the City due to lack of transportation or utilities, or other similar development constraints, or the market to be served by the proposed use cannot be efficiently served by the geographic location of the existing zoning districts.
 - e. There is an error in the Zoning Code text or Official Zoning Map or Official Development Pattern Map as enacted.
 2. No rezoning of land from a residential zoning district classification (R-E(a), R-E(b), R-1, R-2, R-3, R-4) to any non-residential classification (O, B, BP, CC) shall be recommended by the Planning Commission unless:
 - a. Such proposed rezoning site is at least one (1) acre in size, or a complete block face; or
 - b. Such proposed rezoning site is contiguous to land in the proposed zoning district classification.
 3. No reclassification of land from a VH, V, N, or E pattern district to a TC, NC, SC, SS, S, SB, I, or LI shall be recommended by the Planning Commission unless such proposed reclassification site is contiguous to land in the proposed district classification.
- B. In addition to the findings required to be made by Subsection (A) above, The Planning Commission shall consider each of the following matters based on the evidence presented to it.

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

ACCEPTING THE FINDINGS AND RECOMMENDATIONS OF THE FACT FINDER IN SERB CASE NO. 2020-MED-12-1405 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE KETTERING ASSOCIATION OF DISPATCHERS, CONSISTENT WITH THOSE FINDINGS AND RECOMMENDATIONS OR AS MODIFIED BY MUTUAL AGREEMENT OF THE PARTIES

WHEREAS, the Council for the City of Kettering has received the findings and recommendations from the Fact Finder in SERB Case No. 2020-MED-12-1405, regarding the outcome of a Fact-Finding Hearing involving the City of Kettering and the Kettering Association of Dispatchers;

NOW, THEREFORE, Be it resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. City Council accepts the findings and recommendations of the Fact Finder in SERB Case No. 2020-MED-12-1405. The City Manager is hereby authorized to enter into an agreement with the Kettering Association of Dispatchers, consistent with the terms set forth in the findings and recommendations of the Fact Finder in SERB Case No. 2020-MED-12-1405, or as such findings and recommendations are modified by mutual agreement of the parties, as long as the City Manager deems the effect of any modification appropriate.

Section 2. Furthermore, the City Manager is authorized to enter into any subsequent amendments to said agreement, as long as the City Manager deems the effect of any amendment is appropriate.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____, 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Human Resources Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**REJECTING THE FINDINGS AND RECOMMENDATIONS OF
THE FACT FINDER IN SERB CASE NO. 2020-MED-12-1405,
INVOLVING THE CITY OF KETTERING AND KETTERING
ASSOCIATION OF DISPATCHERS**

WHEREAS, the Council for the City of Kettering has received the findings and recommendations from the Fact Finder in SERB Case No. 2020-MED-12-1405, regarding the outcome of a Fact-Finding Hearing involving the City of Kettering and the Kettering Association of Dispatchers; and

WHEREAS, the Council for the City of Kettering consists of seven (7) members and is the legislative body for the City of Kettering, as established by its Charter; and

WHEREAS, the Ohio Collective Bargaining Act provides by statute that in order for a legislative body to reject a Fact Finder's findings and recommendations, a three-fifths (3/5) majority vote of all members of the legislative body is required.

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. By an affirmative vote of at least three-fifths (3/5) of its members, this Council rejects the findings and recommendations of the Fact Finder in SERB Case No. 2020-MED-12-1405.

Section 2. The Clerk of Council shall prepare a record of this vote to accompany this resolution.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Human Resources Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A
COST SHARING AGREEMENT WITH THE BOARD OF
EDUCATION OF THE KETTERING CITY SCHOOL DISTRICT
FOR SCHOOL RESOURCE OFFICERS**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, on behalf of the City of Kettering, to enter into a cost sharing agreement with the Board of Education of the Kettering City School District for one or more School Resource Officers. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Police Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO CONTRACT
WITH THE MONTGOMERY COUNTY PUBLIC
DEFENDER COMMISSION AND THE MONTGOMERY
COUNTY PUBLIC DEFENDER OFFICE TO PROVIDE
MANDATED LEGAL COUNSEL TO INDIGENT PERSONS
APPEARING IN THE KETTERING MUNICIPAL COURT**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is authorized to enter into an agreement with the Montgomery County Public Defender Commission and the Montgomery County Public Defender Office to provide constitutionally mandated legal counsel to indigent persons charged with violations of City ordinances for which the penalty or any possible adjudication includes the potential loss of liberty. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A HAMER III,
Law Director

Estimated Cost: \$50,000.00
Included in 2022 Budget: \$50,000.00
Acct. No.: 1780-72550

(Requested by: Law Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**ACCEPTING THE MATERIAL TERMS OF THE ONE OHIO
SUBDIVISION SETTLEMENT WITH JANSSEN
PHARMACEUTICALS, INC.**

WHEREAS, the City of Kettering, Ohio is a municipal entity formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the people of the State of Ohio and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and legal counsel, separately are engaged in litigation seeking to hold the Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused throughout the State of Ohio by their misfeasance, nonfeasance, and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments, share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Ohio; and

WHEREAS, the State and its Local Governments, subject to completing formal documents effectuating the parties' agreements, have drafted and Kettering has adopted, and hereby reaffirms its adoption of, the *One Ohio* Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of any potential settlements described; and

WHEREAS, the MOU was drafted to maintain all individual claims while allowing the State and Local Governments to cooperate in exploring all possible means of resolution; and

WHEREAS, this Council understands that an additional purpose of the MOU is to create an effective means of distributing any potential settlement funds obtained under the MOU between the State of Ohio and Local Governments in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Ohio, as well as to permit collaboration and explore potentially earlier resolution of the opioid litigation against Opioid Pharmaceutical Supply Chain Participants; and

WHEREAS, nothing in the MOU binds any party to a specific outcome, but rather, any resolution under the MOU requires acceptance by the State of Ohio and the Local Governments; and

WHEREAS a settlement proposal has been presented to the State of Ohio and Local Governments by Janssen Pharmaceuticals, Inc. (Janssen) to resolve governmental entity claims in the State of Ohio against Janssen using the structure of the MOU and consistent with the material terms of the July 21, 2021 proposed National Opioid Distributor Settlement Agreement available at <https://nationalopioidsettlement.com/>; and

WHEREAS, this Council wishes to agree to the material terms of the proposed Janssen Settlement Agreement with Janssen ("Proposed Settlement");

NOW THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager and/or the Law Director are authorized to accept the Proposed Settlement on behalf of the City, pursuant to the terms of the MOU. Further, the City Manager and/or the Law Director are authorized to execute the participation agreement and any other agreements, documents, forms, and instruments as needed to effectuate the Proposed Settlement. The City Manager and/or the Law Director are further authorized to sign any amendments or extensions thereto that the City Manager and/or the Law Director deem appropriate.

Section 2. It is found and determined that all formal actions of the Council relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO CONTRACT FOR
SERVICES WITH THE KETTERING BASKETBALL OFFICIALS
ASSOCIATION**

Be It Resolved by the Council of the City of Kettering, State of Ohio:

Section 1. Pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, the City Manager is hereby authorized to contract with the Kettering Basketball Officials Association to provide officiating and score keeping for the 2022 Adult Basketball Leagues, waiving sealed bidding. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$47,430.00
Included in 2022 Budget: \$47,500.00
Acct. No.: 2410-72550

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO PURCHASE FITNESS EQUIPMENT FOR THE KETTERING RECREATION COMPLEX AND THE KETTERING FITNESS AND WELLNESS CENTER

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for the purchase of fitness equipment for the Kettering Recreation Complex and the Kettering Fitness and Wellness Center. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$99,869.00
Funds Available: \$100,000.00
Acct. No.: 2413-72220

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF KETTERING, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2021

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2021, the following supplemental sums are set aside and appropriated:

A. From the General Fund:

POLICE DEPARTMENT	
Personal Service	\$ 144,700.00
TRANSFERS TO OTHER FUNDS	
Police Pension Fund	\$ 27,300.00
Parks & Recreation Fund	\$ 100,000.00

B. From the Police Pension Fund:

POLICE DEPARTMENT	
Personal Service	\$ 27,300.00

C. From the Parks & Recreation Fund:

PARKS & RECREATION DEPARTMENT	
Operating Expenses	\$ 100,000.00

Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$272,000, net transfers
Amount Budgeted: \$0
Acct. No. Various

(Requested by: Finance Department)

**CITY OF KETTERING, OHIO
AN ORDINANCE**

By:

No.

**TO AMEND CHAPTER 478 OF THE CODIFIED ORDINANCES
OF THE CITY OF KETTERING REGARDING SHARED
MOBILITY DEVICES**

WHEREAS, on February 11, 2020, the City Council passed Ordinance 4337-20, which implemented a one year moratorium on the operation of shared mobility devices within the City; and

WHEREAS, Ordinance 4337-20 was passed to provide time to research and consider the benefits and consequences related to the operation of shared mobility devices in the public right-of-way and whether such activities should be allowed, limited, or entirely prohibited; and

WHEREAS, Ordinance 4337-20, required City staff to make informed recommendations to City Council regarding potential changes to the City's Codified Ordinances based on City Council's determination whether to allow, limit, or prohibit these activities within the City; and

WHEREAS, City staff presented recommendations to City Council to allow shared mobility devices to operate within the City under a framework of regulations that will allow Kettering residents and visitors to reap the benefits of such devices while limiting the risks; and

WHEREAS, City Council has accepted these recommendations and desires to regulate the operation of shared mobility devices within the City in accordance with the amended version of Chapter 478 of the Codified Ordinances as stated herein; and

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio that:

Section 1. Chapter 478 of the City of Kettering Codified Ordinances is amended and renumbered to read as set forth in the attached Exhibit A.

Section 2. If any portion of Chapter 478 is, for any reason, held invalid or unconstitutional by any court 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 thereof.

Section 3. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2021.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)

EXHIBIT A

(10 total pages, including this page)

Chapter 478
Shared Mobility Devices

478.01	Purpose	478.08	Safety Requirements
478.02	Definitions	478.09	Distribution
478.03	Permit Required, Terms, and Fees	478.10	Geo-fencing
478.04	Use of Right of Way	478.11	Data, Statistics, and Reporting
478.05	Operations and Maintenance	478.12	Insurance and Indemnification
478.06	Fleet Size Requirements	478.13	Termination, Suspension, Revocation
478.07	Shared Mobility Device Parking	478.14	Appeal

SECTION 478.01 Purpose

The purpose of this Chapter is to regulate the operation of Shared Mobility Devices and the entities that own or manage Shared Mobility Device Programs within the City of Kettering in an effort to provide the public with safe and efficient transportation options.

SECTION 478.02 Definitions

For purposes of this Chapter, the words listed below, whether capitalized throughout this Chapter or not, shall have the following meanings unless the context clearly indicates an alternative meaning:

"Bicycle" is defined in Section 402.05.

"Block face" means one side of a street between two consecutive intersecting streets.

"City" means the City of Kettering, Ohio.

"Docked Shared Mobility Device Program" means a program in which Operators distribute Shared Mobility Devices to Users via a stationary location or dock and the Shared Mobility Devices must be returned at specific stationary locations or docks. Shared Mobility Devices are tracked via GPS or other similar technology and can be located by Users and Operators.

"Dockless Shared Mobility Device Program" means a program in which Operators distribute Shared Mobility Devices to Users throughout a City to be rented per trip. The Shared Mobility Devices can be locked at any lawful location subject to Section 478.07 of this Chapter, such as a bike or scooter rack(s). These Devices are tracked via GPS or other similar technology and can be located by Users and Operators.

"Electric bicycle," or "e-bike" means a two-wheeled device that has handlebars, a seat, and pedals designed to be operated similar to a bicycle, and is powered by electricity. The electricity is stored on board in a battery.

"Electric Scooter" or "e-scooter" means a two-wheeled device that has handlebars, a floor board, is designed to be stood upon when operating, and is powered by electricity. The electricity is stored on board in a battery.

"Geo-fencing" means the use of a Global Positioning System (GPS), Radio Frequency Identification (RFID), or other similar technology to create a virtual geographic boundary, enabling software to trigger a disabling response when a shared mobility device enters or leaves a particular area.

"Free Operator" means a company, person, or philanthropic organization that manages, owns, or operates a Shared Mobility Device Program but does not charge for the use of their Shared Mobility Device Program.

"Operator" means a company or person that manages, owns, or operates a Shared Mobility Device Program, business, or enterprise.

"Shared Mobility Device Program Fee" means a per vehicle annual fee paid by Operators to repair, maintain, and build public infrastructure and cover the City's administrative costs associated with Shared Mobility Device Programs.

"Shared mobility Device Program Permit" means a permit issued by the City to Operators as described in this Chapter.

"Shared Mobility Device Program" means a transportation business or operation managed by an Operator or Free Operator that is ideal for short distance, point-to-point trips providing Users the ability to pick up a Shared Mobility Device from one location and leave it at another within a Program's area. The Program provides Users unencumbered access to Shared Mobility Devices within a defined Program area. Shared Mobility Devices can be remotely accessed via a smart phone application or other means and do not need to be attended by the Operator.

"Shared Mobility Device" means bicycles, electric bicycles, electric scooters, or other similar devices that are part of a Shared Mobility Device Program.

"Users" means any individual operating or riding a Shared Mobility Device.

SECTION 478.03 Permit Required, Term, and Fees

- (A) All Operators wishing to operate a Shared Mobility Device Program within the City shall submit a Shared Mobility Device Program Application ("Program Application"), a Shared Mobility Device Program Application Fee, (Program Application Fee") and secure a Shared Mobility Device Program Permit ("Program Permit"), as issued by the City of Kettering Engineering Department, and submit a Shared Mobility Device Program Fee ("Program Permit Fee"). The decision to issue a Program Permit is at the sole discretion of the City.
- (B) Each Program Permit shall be active for one year from the date of issuance. Prior to the expiration of the Program Permit, applicants desiring to continue to operate their Shared Mobility Device Programs within the City must apply for a renewal of the Program Permit.
- (C) The Program Application Fee, Program Permit Fee, and other fees as applicable, shall be established and maintained in a fee schedule by the City of Kettering Engineering Department.
- (D) All Operators shall pay the City, through the City of Kettering Engineering Department, a Program Permit Fee per Shared Mobility Device, per year, calculated based upon the fleet size requested and approved in the Program Permit Application. Should an increase in fleet size be approved in accordance with Section 478.06 of this Chapter, the Program Permit Fee amount shall also be increased to reflect the new fleet size. The Program Fee shall pay for the City's administrative costs and the cost of installation, maintenance, and repair of City's infrastructure related to or necessitated by the Shared Mobility Device Program.
- (E) Shared Mobility Device Programs that are managed by Free Operators shall be required to secure a Program Permit as stated in this Section. However, Shared Mobility Device Programs that are managed by Free Operators shall be exempt from the fees required in subsections (C) and (D) of this Section for each fiscal year in which the Shared Mobility Device Program continues to be managed by a Free Operator.
- (F) The Program Permit Application shall, at a minimum, require the following:
 - (1) The form of business of the applicant and, if the business is a corporation, association, or other legal entity, a copy of the documents establishing the business and the name and address of each person with a 20 percent or greater ownership interest in the business;
 - (2) The address of the fixed facilities to be used in the operation, if any, and the address of the applicant's corporate headquarters, if different from the address of the fixed facilities;

- (3) The name of a person designated by the applicant to receive, on behalf of the applicant, any future notices sent by the City to the Operator and that person's contact information, including a mailing address, telephone number, and e-mail address;
 - (4) The plans and information required under Section 478.09 of this Chapter regarding alternative means for Users to pay for the use of Operator's Shared Mobility Devices and the equitable distribution of Shared Mobility Devices to low-income, minority, non-English speaking, and zero-car populations;
 - (5) Documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the liability insurance required in Section 478.12 of this Chapter;
 - (6) Documentary evidence from a bonding company, insurance company, or bank indicating that it has bound itself to provide the applicant with the performance bond or irrevocable line of credit required in Section 478.12 of this Chapter;
 - (7) The number and type of Shared Mobility Devices to be operated under the Program Permit, not to exceed the limits set in Section 478.06 of this Chapter, unless otherwise approved by the City;
 - (8) A signed agreement to indemnify and hold harmless the City from any damages related to the use of Shared Mobility Devices in the City;
 - (9) An example of the language agreed to by any User of the Operator's Shared Mobility Devices that holds the City harmless from and indemnifies the City from any damages related to the User's use of the Operator's Shared Mobility Devices in the City;
 - (10) A notarized signature of the applicant; and
 - (11) Any additional information requested by the City necessary to determine whether the Applicant is able to meet the requirements of this Chapter.
- (G) At a minimum, the Program Permit shall contain the following:
- (1) The amount of Shared Mobility Devices the Operator is permitted to have in service;
 - (2) The hours that the Shared Mobility Devices may be in service;
 - (3) The expiration date of the permit; and
 - (4) The name, address, and contact information of the Operator.
- (H) The City may refuse to issue or renew a Program Permit under the following circumstances:
- (1) If the Operator or applicant intentionally or knowingly makes a false statement in an Application for a Program Permit;
 - (2) If the Operator or applicant has violated any state, local, or federal law, rule, or regulation;
 - (3) If the City determines, in its sole discretion, that the amount of Shared Mobility Devices deployed within the City exceeds the amount of Shared Mobility Devices permitted to operate within the City or exceeds an amount that the City Rights of Way is capable of withstanding; or
 - (4) If the City, in its sole discretion, determines that the Operator has not been responsive to community or City concerns in its use of the Rights of Way.
- (I) It shall be unlawful to operate a Shared Mobility Device Program without a valid Program Permit obtained in accordance with this Chapter and a valid Rights of Way Certificate of Registration obtained in accordance with Chapter 901 – Rights of Way Administration of this Code .
- (J) A Program Permit is non-transferable.

SECTION 478.04 Use of Rights of Way

- (A) Docked Shared Mobility Device Programs may locate their docking stations on private property as permitted in writing by the owners of that property. Docked Shared Mobility Device Programs may locate their docking

stations in public Rights of Way pursuant to the Operator's receipt of a Certificate of Registration in accordance with Chapter 901 – Rights of Way Administration of this Code. The locations of docking stations in the public Rights of Way shall be determined by the City in its sole discretion. A user, having activated and completed use of the Shared Mobility Device in accordance with the Operator's rules, must leave the Shared Mobility Device at the docking station designated by the Docked Shared Mobility Device Program within the Program's service area for the next User.

- (B) Dockless Shared Mobility Device Programs may locate their Shared Mobility Devices, racks, and other parking equipment on private property as permitted in writing by the owners of that property, or on public Rights of Way pursuant to the Operator's receipt of a Certificate of Registration in accordance with Chapter 901- Rights of Way Administration of this Code. The locations of Dockless Shared Mobility Devices and their racks or other parking equipment in the public Rights of Way shall be determined by the City in its sole discretion. A User, having activated and used the Shared Mobility Device in accordance with the Operator's rules, may leave the Shared Mobility Device at any designated lawful location, subject to Section 478.07 of this Chapter, within the Dockless Shared Mobility Device Program's service area. The Shared Mobility Device is then available for another's use.

SECTION 478.05 Operations and Maintenance

- (A) All Operators shall have staffed operations located within the City for the purpose of Shared Mobility Device maintenance and rebalancing.
- (B) All Operators shall have a staffed 24-hour customer service phone number for Users to report safety concerns, maintenance issues, complaints, or ask questions.
- (C) Every Shared Mobility Device shall have the Operator's name, phone number, and a unique identifier for each Shared Mobility Device that is clearly displayed and visible to the User on the Shared Mobility Device.
- (D) Operators shall deploy their Shared Mobility Devices for use by Users prior to 7:00 a.m., local time, daily from the Shared Mobility Devices' docks, racks, or designated parking areas approved by the City in accordance with section 478.07(F) of this Chapter. All Shared Mobility Devices must be immobilized each day by 8:00 p.m. Operators must retrieve any Shared Mobility Devices that are left outside of a dock, rack, or designated parking area and return the Shared Mobility Device to a dock, rack, or designated parking area by 9:00 p.m. An Operator's failure to perform these duties may result in the impoundment of any Shared Mobility Device(s) left outside of a dock, rack, or designated parking area past 9:00 p.m., and Operator must pay all costs of impoundment. Continued failure to adhere to this Section may result in the termination, suspension, revocation of Operator's Program Permit or a refusal to renew the Program Permit upon Operator's submission of a Program Permit Application.
- (E) Any inoperable, faulty, or damaged Shared Mobility Device shall be removed from the public Rights of Way within 12 hours of notice given by any means to the Operator by any individual or entity. Any inoperable or unsafe Shared Mobility Device shall be repaired to full working order before being placed back into operation by Operators.
- (F) If the City determines that a Shared Mobility Device is a safety hazard to the public or that a Shared Mobility Device is parked in violation of this Section or Section 478.07 of this Chapter then the City may impound the Shared Mobility Device(s). Notice of impoundment shall be sent via regular U.S. Mail or certified mail to the Operator at the mailing address listed in Operator's Program Permit Application and shall state that the Shared Mobility Device shall be disposed of if Operator does not claim it within ten (10) days of the date listed in the notice. The Operator may reclaim the Shared Mobility Device upon the presentation of proof of ownership of the Shared Mobility Device and the payment of an impoundment fee covering the cost of retrieval and storage of the Shared Mobility Device. The City will not be liable for any damages that occur as a result of impoundment. The Operator shall pay for the cost of removal and storage related to impoundment of the Shared Mobility Device(s). Any Shared Mobility Device, removed by the City from public Rights of Way pursuant to this Chapter, which is not claimed by the Operator in accordance with this Section and remains unclaimed with the City for 60 days, shall be considered abandoned, and the City may assert ownership of same, and keep or dispose of said Shared Mobility Device as City sees fit, including public sale. The proceeds of any such sale shall belong to City.

- (G) The City may, with or without notice, inspect Operator's compliance with this Chapter. If an Operator is found to be in non-compliance, the City may terminate, suspend, or revoke the Operator's Program Permit in accordance with Section 478.13 of this Chapter or may refuse to renew the Operator's Program Permit upon Operator's submission of a Program Permit Application.

SECTION 478.06 Fleet Size Requirements

- (A) Permitted bicycle Operators for both bicycles and electric bicycles shall have a minimum fleet size of 50 bicycles/electric bicycles, and a maximum bicycle/electric bicycle fleet size of 100 bicycles.
- (B) Permitted electric scooter Operators shall have a minimum fleet size of 50 electric scooters, and a maximum fleet size of 100 electric scooters.
- (C) Permitted Operators with a combination of bicycles/electric bicycles and scooters shall have a minimum fleet size of 50 Shared Mobility Devices and a maximum of 150 Shared Mobility Devices, provided that there is a minimum of 20 of each type of Shared Mobility Device.
- (D) The total number of Shared Mobility Devices permitted within the City shall be limited to a cumulative total of 500 between all permittees.
- (E) All applicants shall include their fleet size in their Program Permit Application.
- (F) The City may increase the maximum number of Shared Mobility Devices allowed in an Operator's fleet above the maximums in subsections (A)—(C) at its sole discretion and will consider doing so on a permit-by-permit basis. In order to increase the maximum number of Shared Mobility Devices, an Operator must demonstrate that, on average, each Shared Mobility Device in their fleet is being used more than three times per day. Operators may request an increase to their fleet size above the maximum amount up to one time per month, provided that at least two months have elapsed after their initial Program Permit issuance. Each request will be subject to an increase in the Operator's Program Permit Fee upon renewal of the Operator's Program Permit, as provided in Section 478.03.

SECTION 478.07 Shared Mobility Device Parking

- (A) Shared Mobility Devices may not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk, or in any manner that would impede the pedestrian zone of a sidewalk to less than five feet, or in any manner that would impede the opening or closing of automobile doors, or in any manner the exiting or entry to an automobile.
- (B) The City may prohibit the parking of Shared Mobility Devices in certain block faces.
- (C) Shared Mobility Devices may not be parked in a manner that would impede vehicular traffic on a street or alley.
- (D) Shared Mobility Devices shall not be parked in a manner such that access to the following is impeded:
- (1) ADA handicap parking zones;
 - (2) Street furniture that requires pedestrian access (i.e. benches, parking pay stations, bus shelters, etc.);
 - (3) Curb ramps;
 - (4) Entryways; and
 - (5) Driveways.
- (E) Shared Mobility Devices shall not be parked within:
- (1) Transit zones, including bus stops, shelters, passenger waiting areas and bus staging zones, except at existing bicycle racks;
 - (2) Loading zones; and
 - (3) Landscape planting beds or other landscape materials, including islands and boulevards.

- (F) The City may require that Shared Mobility Devices be parked within certain designed parking stations or areas within the City, and the City may require that those stations or areas be Geo-fenced (“designated parking areas”).
- (G) Incorrectly parked Shared Mobility Devices shall be moved within 12 hours of notice to the Operator by any means, unless the Shared Mobility Device is creating a public safety hazard. Such notice to the Operator may be made by any individual or entity. If a Shared Mobility Device is left in violation of this Section for longer than 12 hours then the City may impound the Shared Mobility Device in accordance with Section 478.05(F).
- (H) The City may immediately remove and impound, in accordance with Section 478.05(F) of this Chapter, a Shared Mobility Device from the Rights of Way if it is found to be a safety hazard or is found to be in violation of any part of this Chapter.

SECTION 478.08 Safety Requirements

- (A) All bicycles used in Shared Mobility Device Programs issued a Program Permit under this Chapter shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512—Requirements for Bicycles. Additionally, permitted Shared Mobility Device Programs shall meet the safety standards outlined in the International Organization for Standardization (ISO) Section 43.150—Cycles, subsection 4210.
- (B) All electric bicycles used in Shared Mobility Device Programs issued a Program Permit under this Chapter shall meet the Consumer Product Safety Act definition of low-speed electric bicycles; and shall be subject to the same requirements as ordinary bicycles described in subsection (A). This means, among other requirements, that electric bicycles shall have fully operable pedals, an electric motor of less than 750 watts, and a top motor-powered speed of less than 20 miles per hour when operated by a rider weighing 170 pounds. Additionally, the City may terminate any Program Permit issued if the battery or motor on an electric bicycle is determined by the City to be unsafe for public use.
- (C) All electric bicycles used in Shared Mobility Device Programs issued a Program Permit under this ordinance shall meet the requirements of Section 4511.522 of the Ohio Revised Code.
- (D) All electric scooters used in Shared Mobility Device Programs issued a Program Permit under this Chapter shall meet the Consumer Product Safety Act definition of electric scooters, in addition to requirements provided by the City's definition for electric scooters as defined in Section 478.02.
- (E) All Shared Mobility Devices shall meet City's requirements for lights during hours of darkness, including a front light that emits white light and a rear red light as described in Section 474.05(a) of this Code and all other applicable requirements of City and state law.
- (F) All Shared Mobility Devices used in Shared Mobility Device Programs issued a Program Permit under this Chapter shall meet the requirements of Section 4511.711 of the Ohio Revised Code.
- (G) All permitted Shared Mobility Device Programs shall have visible language located via signage on the Shared Mobility Device and on the mobile payment application to rent the Shared Mobility Device that notifies the User that:
 - (1) Helmet use is encouraged while riding a Shared Mobility Device;
 - (2) Users of class 2 electric bicycles and electric scooters shall yield to bicycles in bike lanes;
 - (3) Users of Shared Mobility Devices, including e-scooters, shall follow Section 474 of this Code and Section 4511.711 of the Ohio Revised Code;
 - (4) Whenever any person is riding a Shared Mobility Device upon a sidewalk, such person shall yield the Rights of Way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian; and
 - (5) When riding on-street, Shared Mobility Devices shall follow all posted traffic signs and signals.

SECTION 478.09 Distribution

- (A) If an Operator has over 150 Shared Mobility Devices, at least 20 percent shall be rebalanced once per day to be located in underserved areas of the City, as determined by City staff.
- (B) All Operators shall provide the City with a plan for equitable Shared Mobility Device sharing service, including: education of, marketing to, and engagement with low-income, minority, non-English speaking, and zero-car populations. The plan should address such topics as how to use Shared Mobility Device Programs, Shared Mobility Device safety, and Shared Mobility Device laws and regulations.
- (C) All Operators shall provide information on how Users can use the Shared Mobility Device Program without (1) a smartphone; and/or (2) a credit or debit card.

SECTION 478.10 Geo-fencing

- (A) The City shall maintain a list of areas of the City that are Geo-fenced. Geo-fencing may include streets, sidewalks, paths, parks, campuses, and other areas of the City. Operators shall make the necessary adjustments to their Shared Mobility Devices and Shared Mobility Device Programs to account for Geo-fenced areas so that Users are notified of all Geo-fenced locations.
- (B) During temporary street or other Rights of Way closures due to scheduled construction, special events, or other planned activities the City shall provide Operators with at least 21-day notice of the change in order to establish temporary Geo-fenced areas. In order to protect the public health, safety, and welfare during an emergency, the City may require Operators to immediately establish temporary Geo-fenced areas.
- (C) Operators shall make all necessary adjustments to their Shared Mobility Device Programs and Shared Mobility Devices to ensure that the Operator's Shared Mobility Devices become inoperable when entering a Geo-fenced area.

SECTION 478.11 Data, Statistics, and Reporting

- (A) All Operators must include active location tracking capabilities on each Shared Mobility Device to ensure the easy location of all Shared Mobility Devices, as well as to facilitate data collection and data sharing as outlined in this Section.
- (B) All Operators will provide Users with a privacy policy that safeguards Users' personal, financial, and travel information and usage, including but not limited to trip origination and destination data.
- (C) All Operators shall maintain a record of maintenance activities, including but not limited to Shared Mobility Device identification number and maintenance records. These records shall be made available to the City upon request.
- (D) All Operators shall provide the City, or a third-party researcher designated by the City, the following data on a monthly basis in a format approved by the City:
 - (1) Aggregated breakdown of Users by gender and age;
 - (2) The number of Shared Mobility Devices in circulation;
 - (3) Daily, weekly and monthly active Users;
 - (4) Shared Mobility Device usage, including:
 - (a) Total User miles, broken out daily, monthly, quarterly, and annually; and
 - (b) The number and duration of rides per User per day, as well as the number of rides per Shared Mobility Device per day.
 - (5) Anonymized aggregated data taken by the Operator's Shared Mobility Devices in the form of heat maps showing routes, trends, origins, and destinations;

- (6) Anonymized trip data taken by the Operator's Shared Mobility Devices that includes the origin and destination, trip duration, and date and time of trip;
 - (7) Customer comments/complaints and resolution, theft/vandalism, and average repair times; and
 - (8) Reported collisions.
- (E) All Operators shall provide the City with anonymous real-time data (information that is delivered immediately after collection) on the availability and location of the entire Operator fleet in the City upon request.
 - (F) All Operators shall conduct qualitative surveys, developed collaboratively between the City and Operator, after the first six months of operation, and then annually after the first six-month survey.

SECTION 478.12 Insurance and Indemnification

- (A) All Operators shall continuously maintain throughout the entire term of the Program Permit general commercial liability insurance that covers the operation of Operator's Shared Mobility Device Program with a minimum liability limit of \$1,000,000.00, listing the City as additionally insured, and issued by an insurance company licensed to do business in Ohio, and any additional insurance requirements as specified in the Program Permit Application.
- (B) Prior to the Program Permit being issued, all applicants shall sign an agreement indemnifying and holding harmless the City as outlined in the Shared Mobility Device Program Permit.
- (C) All Operators shall provide the City with a surety bond or an irrevocable, unconditional letter of credit in accordance with the requirements of Chapter 901.121 of this Code.
- (D) All Operators shall agree that the City is not responsible for educating Users regarding safety requirements and other laws, nor is the City responsible for educating Users on how to ride or operate a Shared Mobility Device. Operators agree to educate Users regarding laws applicable to riding and operating a Shared Mobility Device in the City and to instruct Users to comply with applicable laws pertaining to Shared Mobility Devices.

SECTION 478.13 Termination, Suspension, and Revocation

- (A) Termination of Program Permit. The City may, for cause or convenience in its sole discretion, terminate a Program Permit by providing the Operator with a notice of termination. If a Program Permit is terminated then the Operator must remove all Shared Mobility Devices and all equipment and infrastructure related to the Shared Mobility Device Program from the Rights of Way within seven (7) days of the notice of termination. If the Shared Mobility Devices and related equipment and infrastructure are not removed in accordance with the notice of termination, the City may impound the Shared Mobility Devices and all related equipment and infrastructure pursuant to the provisions of this Chapter.
- (B) Suspension of Program Permit. The City may suspend a Program Permit if the City determines that the Operator has failed to comply with Sections 478.05 or 478.07 of this Chapter. The City may suspend a Program Permit for any other municipal purpose to protect the public health, safety, or welfare. A suspension of a Program Permit will not extend or alter the expiration date of the Program Permit.
- (C) Revocation of Program Permit. The City may revoke a Program Permit if it determines:
 - (1) The Operator, or their agents or employees made a false statement in the Program Permit Application;
 - (2) The Operator has diminished, failed to maintain, or altered the insurance required under this Chapter;
 - (3) The Operator has diminished, failed to maintain, or altered the performance bond or letter of credit required by this Chapter;
 - (4) The Operator has failed to pay a fee or fees as required by this Chapter; or
 - (5) The Operator, to the satisfaction of the City, has not adequately responded to issues or concerns of which the Operator has received notice.

If a Program Permit is revoked by the City, the Operator and any person with a twenty percent (20%) or larger interest in the Operator, shall not be eligible for another Program Permit for a period of up to two years.

SECTION 478.14 Appeal

Any applicant who is denied a Program Permit, or an Operator whose Program Permit is terminated, suspended, or revoked as outlined in Section 478.13, may appeal, or request a review or reconsideration of that Program Permit decision. An appeal of a Program Permit decision may be made to the City of Kettering Business License Review Board, under Section 711.16 of this Code, by submitting the notice of termination, suspension, or revocation or Program Permit denial as well as a request for the appeal, in writing, within ten calendar days of the original Program Permit decision. The request must include:

- (1) The Program Permit Application that is up for review or reconsideration. The Program Permit may be identified by its identification number and the Program Permit Application address;
- (2) The specific objections to the original City decision;
- (3) The specific actions being proposed by the Operator that could change the Program Permit decision;
and
- (4) Any fee required to process the appeal as established in the fee schedule maintained by City's Engineering Department.