



## VILLAGE OF EVENDALE ADOPTED ORDINANCES AND RESOLUTIONS

The following ordinances and resolutions were adopted by the Council of the Village of Evendale at its Regular Council Meeting on February 13<sup>th</sup>, 2018.

**ORD. # 18-08**

ORDINANCE APPOINTING CATHERINE BENNETT TO THE PLANNING COMMISSION FOR A TERM ENDING DECEMBER 31, 2021 AND DECLARING AN EMERGENCY. Unanimously approved

**ORD. #18-10**

AN ORDINANCE APPROVING A TRANSFER FROM THE CONTINGENCY FUND TO THE ADMINISTRATION DEPARTMENT CULTURAL ARTS ACCOUNT AND DECLARING AN EMERGENCY. Unanimously approved

**ORD. #18-11**

AN ORDINANCE APPROVING A TRANSFER FROM THE CONTINGENCY FUND TO THE FIRE DEPARTMENT CAPITAL IMPROVEMENTS ACCOUNT AND DECLARING AN EMERGENCY. Unanimously approved

**ORD. #18-12**

AN ORDINANCE AMENDING SECTIONS 1468.06 AND 1468.13 OF CHAPTER 1468, THE EVENDALE PROPERTY MAINTENANCE CODE, CONTAINED IN THE CODIFIED ORDINANCES OF THE VILLAGE OF EVENDALE, AND ESTABLISHING A DATE FOR EXISTING RENTAL PROPERTIES COMPLIANCE WITH THE RENTAL PERMIT REQUIREMENT OF SECTION 1468.06(A) AND DECLARING AN EMERGENCY. Unanimously approved

**ORD. #18-13**

AN ORDINANCE APPROVING AN ADDITIONAL APPROPRIATION FROM THE ALCOHOL LAW ENFORCEMENT TRUST FUND TO PAY THE CITIZENS' REWARD PROGRAM A TOTAL OF \$200. Unanimously approved

**ORD. #18-14**

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SALE OF APPROXIMATELY 1.4 ACRES OF VILLAGE OF EVENDALE PROPERTY LOCATED AT 3040 INWOOD DRIVE AND 10260 READING ROAD, WHICH CONTRACT SHALL CONFORM TO THE PROVISIONS OUTLINED IN THE LETTER OF INTENT ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN AND DECLARING AN EMERGENCY. Unanimously approved

**ORD. # 18-16**

AN ORDINANCE AMENDING CHAPTER 1263, WIRELESS COMMUNICATIONS TOWERS AND SYSTEMS, OF THE EVENDALE ZONING CODE AND DECLARING AN EMERGENCY. Unanimously approved

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE # 18-08**

**ORDINANCE APPOINTING CATHERINE BENNETT TO  
THE PLANNING COMMISSION FOR A TERM ENDING  
DECEMBER 31, 2021 AND DECLARING AN  
EMERGENCY.**

**WHEREAS,** There is a vacancy in the Planning Commission of the Village of Evendale created by the expiration of the term of Mark Ferguson; and

**WHEREAS,** The Mayor has recommended Catherine Bennett, an officer at Kinetic Vision, a business located at 10255 Evendale Commons Drive in the Village of Evendale. She is identified as a qualified individual to serve on the Commission; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION 1:** The following individual is hereby appointed to fill the existing vacancy on the Planning Commission for a four-year term as provided in the Evendale Village Charter, Article VI, Section 1:

<u>Individual</u>	<u>Board of Commission Term End</u>
Catherine Bennett	Planning Commission 12/31/21

**SECTION 2:** This Ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of a department or office of the Village of Evendale. It is necessary for this measure to be put into immediate effect because the daily operation of the Planning Commission requires full membership to properly operate. This ordinance shall therefore be effective upon passage.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

\_\_\_\_\_  
Village Solicitor

1st Reading: February 13, 2018  
Rules Suspended: February 13, 2018  
2nd and 3rd Reading: February 13, 2018  
Emergency Section Agreed to: February 13, 2018  
Notice of publication: Tri-County Press, February 21, 2018

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE #18-10**

**AN ORDINANCE APPROVING A TRANSFER FROM THE CONTINGENCY FUND TO  
THE ADMINISTRATION DEPARTMENT CULTURAL ARTS ACCOUNT AND  
DECLARING AN EMERGENCY**

- WHEREAS,** Pursuant to legislation properly adopted by the Council of the Village of Evendale, certain expenditures will take place that need to be appropriately reflected as an appropriation; and,
- WHEREAS,** the Cultural Arts Center floors are in need of repair and maintenance not planned for in the original budget; and
- WHEREAS,** The Center has received an estimate to refinish and reseal all of the floors in the building which includes two additional maintenance cleanings in 2018; and
- WHEREAS,** The floors in the Center have not been refinished and resealed in many years and as the Village is staffed only for light maintenance and cleaning of the Cultural Arts Center it is in the best interest of the Village to have this service outsourced for the Cultural Arts Center; and
- WHEREAS,** Funding is available in the contingency line item to supplement the funds necessary; now

BE IT THEREFORE ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION 1:** The following sum is transferred from the General Fund Contingency Fund account:

101.799.579900	\$8,000.00
----------------	------------

To the 701 Administration Department:

101.701.524232 Cultural Arts	\$8,000.00
------------------------------	------------

**SECTION 2:** These appropriated funds are authorized to be expended for the cleaning and maintenance of the Cultural Arts Center floors.

**SECTION 3:** This ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of a department or office of the Village of Evendale. It is necessary that this measure be put into immediate effect because the public welfare and daily operations of the Village require that line items within Fund budgets not exceed the appropriation amounts approved by Council and it is in the public interest to maintain the floors in the Cultural Arts Center. This ordinance shall be effective upon passage.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

---

Village Solicitor

1st Reading: February 13, 2018

Rules Suspended: February 13, 2018

2nd and 3rd Reading: February 13, 2018

Emergency Section Agreed to: February 13, 2018

Notice of publication: Tri-County Press, February 21, 2018

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE #18-11**

**AN ORDINANCE APPROVING A TRANSFER FROM THE CONTINGENCY FUND TO  
THE FIRE DEPARTMENT CAPITAL IMPROVEMENTS ACCOUNT AND  
DECLARING AN EMERGENCY**

- WHEREAS,** Pursuant to legislation properly adopted by the Council of the Village of Evendale, certain expenditures will take place that need to be appropriately reflected as an appropriation; and,
- WHEREAS,** the Fire Department has received a grant in the amount of \$11,166.66 from the Bureau of Workers Compensation (BWC); and
- WHEREAS,** The Fire Department must spend the funds within the window designated by the BWC; and
- WHEREAS,** The funds received and being transferred are for a new capacity washer/extractor to help protect Firefighters from Exposure to Environmental Elements. Furthermore the extractor connection requires added piping and drainage for which installation costs exceeded the expected amount; and
- WHEREAS,** Funding is available in the contingency line item to supplement the funds necessary; now

BE IT THEREFORE ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION 1:** The following sum is transferred from the General Fund Contingency Fund account:

101.799.579900	\$13,400.00
To the 102 Fire Department:	
101.102.525211 Capital Improvements	\$13,400.00

**SECTION 2:** These appropriated funds are authorized to be expended for the purchase and installation of the safety items approved in the BWC grant.

**SECTION 3:** This ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of a department or office of the Village of Evendale. It is necessary that this measure be put into immediate effect because the public welfare and daily operations of the Village require that line items within Fund budgets not exceed the appropriation amounts approved by Council and it is in the public interest to provide the Fire department the means to obtain and install safety equipment. This ordinance shall be effective upon passage.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

\_\_\_\_\_  
Village Solicitor

1st Reading: February 13, 2018  
Rules Suspended: February 13, 2018  
2nd and 3rd Reading: February 13, 2018  
Emergency Section Agreed to: February 13, 2018  
Notice of publication: Tri-County Press, February 21, 2018

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE #18-12**

**AN ORDINANCE AMENDING SECTIONS 1468.06 AND 1468.13 OF CHAPTER 1468,  
THE EVENDALE PROPERTY MAINTENANCE CODE, CONTAINED IN THE  
CODIFIED ORDINANCES OF THE VILLAGE OF EVENDALE AND DECLARING AN  
EMERGENCY**

**WHEREAS**, in an opinion and order dated January 19, 2018 in *Harold Vonderhaar, et al. v. Village of Evendale, Ohio, et al.*, Case No. 1:17cv480, Judge Michael R. Barrett, found that Section 1468.13 of the Evendale Property Maintenance Code, failed to make it clear that if the property owner or tenant refused to grant entrance to the property, the Building Commissioner could not enter without first obtaining a search warrant even though that section of the code provided that “if entry is refused, the Building Commissioner shall have recourse to the remedies provided by law to secure entry.”

**WHEREAS**, The plaintiffs in the Vonderhaar case also claimed that giving them only the alternative of affirming via an affidavit that their properties are in compliance with the Code” violates their Fifth Amendment rights; and

**WHEREAS**, in order to bring the Property Maintenance Code into compliance with Judge Barrett’s decision regarding search warrant language and to eliminate any question regarding plaintiff’s Fifth Amendment issue. Counsel for the Village of Evendale has recommended that the Property Maintenance Code be amended to adopt language approved by the United States Third Circuit Court of Appeals in *Marcavage v. Borough of Lansdowne, PA*, 493 Fed. Appx. 301 (3<sup>rd</sup> Cir. Aug. 9, 2012); now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:**

**SECTION 1:** Existing Section 1468.06, Residential Rental Property Registration, Permit and Inspections, is hereby amended to add a new Subsection B(3), giving the property owner the option of providing a written certification by a licensed Ohio architect or engineer of compliance with the Property Maintenance Code. Section 1468.06 is hereby amended and ordained to read as follows:

1468.06        Residential Rental Property Registration, Permit and Inspections.

A.                In addition to compliance with Evendale’s short-term rental Ordinance, owners of residential dwellings within the Village that let, sublet, rent, lease, or otherwise permit occupancy by someone other than the owner are required to obtain a Rental Permit from the Village. Upon permit application, the applicant shall include a completed copy of Hamilton County’s Residential Rental Property Registration Form.

B.                Prior to the issuance of a permit, property owners seeking a rental registration permit shall do one of the following:

1.                Permit the rental property for which the permit is being sought to be inspected by the Building Commissioner and/or their designee(s) to determine compliance with this Code; or

2.                Sign a sworn affirmation indicating that the property in question is in compliance with this Code; or

3.                Provide a written certification signed by a licensed Ohio architect or engineer confirming the residential rental property in question is in compliance with this Code.

C.                After the initial inspection or affirmation, rental properties must be inspected or a

new affirmation submitted within five (5) days prior to a change in occupancy.

D. Owners are to provide a list of tenants for each occupancy, providing the names of the tenants of majority age and providing only the number of minor children that are/will be residing in the household.

E. Failure to bring noticed violations into compliance with this code as provided by section 1468.13 may result in, among other legal action(s), permit revocation.

F. Permits, unless otherwise revoked, are valid for five (5) years from the date of issuance; however, a permit must be renewed when there is a change in occupancy.

G. Permit administration fees will be set by Village Ordinance.

**SECTION 2:** Existing Subsection 1468.13(C), Right of Entry, is hereby repealed and replaced as provided for in Section 3 below.

**SECTION 3:** A new Subsection 1468.13(C), Right of Entry, is hereby ordained to read as follows:

1468.13(C), Right of Entry.

The owner, occupant, tenant or person in charge of any property or rental unit possesses the right to deny entry to any unit or property by the Building Commissioner or Code Enforcement Officer for the purpose of compliance with this Chapter, the Property Maintenance Code. However, nothing in this Chapter shall prohibit the Building Commissioner or Code Enforcement Officer from asking permission from an owner, occupant, tenant or person in charge of property for permission to inspect such property or rental unit for compliance with this chapter and all other applicable laws, regulations and codes, to seek a search warrant based on probable cause or to enter such property or rental unit in case of emergency circumstances requiring expeditious action.

**SECTION 4:** The remaining provisions of Chapter 1468 of the Village of Evendale Property Maintenance Code shall remain as adopted by Ordinance #16-78 on December 13, 2016 and the fees for the residential rental property registration shall remain as provided for by Ordinance No. 17-16, adopted on February 14, 2017.

**SECTION 5:** This ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of department or office of the Village of Evendale and shall therefore become effective immediately. The reason for said emergency is to bring the Code provisions into compliance with Judge Barrett's federal court order and to ensure the constitutionality of the Chapter. Therefore, this ordinance shall become effective immediately.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

---

Village Solicitor

1st Reading: February 13, 2018

Rules Suspended: February 13, 2018

2nd and 3rd Reading: February 13, 2018

Emergency Section Agreed to: February 13, 2018

Notice of publication: Tri-County Press, February 21, 2018



**VILLAGE OF EVENDALE, OHIO  
ORDINANCE #18-13**

**AN ORDINANCE APPROVING AN ADDITIONAL  
APPROPRIATION FROM THE ALCOHOL LAW  
ENFORCEMENT TRUST FUND TO PAY THE CITIZENS'  
REWARD PROGRAM A TOTAL OF \$200.**

**WHEREAS,** Pursuant to legislation properly adopted by the Council of the Village of Evendale, certain expenditures will take place that need to be appropriately reflected as appropriations; and

**WHEREAS,** The Village of Evendale has been awarded \$52.00 in forfeited U.S. Currency pursuant to Revenue Code 2981.12: and

**WHEREAS,** Under this statute twenty five percent of the award is to be remitted to the Citizens' Reward Program. The amount required to be remitted is \$13.00; however, the Village desires to increase the amount to a total of \$200 to be provided to the Citizens' Reward Program to support its valuable work; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION I** The following sums are appropriated from the unappropriated Alcohol Law Enforcement Trust Fund (207) to the following objects:

230-239 Contract Services	\$200.00
---------------------------	----------

**SECTION II** This ordinance shall take effect and be in force from the earliest date allowed by law.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

\_\_\_\_\_  
Village Solicitor

1st Reading: February 13, 2018  
Rules Suspended: February 13, 2018  
2nd and 3rd Reading: February 13, 2018  
Emergency Section Agreed to: February 13, 2018  
Notice of publication: Tri-County Press, February 21, 2018

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE #18-14**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SALE OF APPROXIMATELY 1.4 ACRES OF VILLAGE OF EVENDALE PROPERTY LOCATED AT 3040 INWOOD DRIVE AND 10260 READING ROAD, WHICH CONTRACT SHALL CONFORM TO THE PROVISIONS OUTLINED IN THE LETTER OF INTENT ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN AND DECLARING AN EMERGENCY**

- WHEREAS,** Sherwin Williams desires to purchase property from the Village of Evendale at the northeast corner of Reading Road and Inwood Drive in order to establish a national retail paint store on the property; and
- WHEREAS,** Sherwin Williams has indicated a willingness to include in the Purchase Agreement and deed limitations prohibiting certain undesirable future uses from ever locating on the site and providing for protected green space as a buffer between the store and the residences on Inwood Drive; and
- WHEREAS,** it is recognized that to complete this transaction that a zone change on a portion of the property will be required; and
- WHEREAS,** the purchase price of \$295,000 is hereby determined by Village Council to be a fair and adequate price; and
- WHEREAS,** Council further determines that the property involved is unnecessary for any other governmental purposes; and
- WHEREAS,** Council further determines that the use proposed for the property will bring jobs and necessary commerce to the Village of Evendale and therefore promotes the economy of the Village; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION 1:** The Mayor is hereby authorized to execute a Sale Agreement and a Deed, all of which shall substantially conform to the terms of the Letter of Intent, attached hereto and incorporated by reference herein.

**SECTION 2:** This ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of department or office of the Village of Evendale. The reason for said emergency is to promote the economy of the Village of Evendale and to achieve that benefit at the earliest possible time. Therefore, this ordinance shall become effective immediately.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

\_\_\_\_\_  
Village Solicitor

1st Reading: February 13, 2018  
Rules Suspended: February 13, 2018  
2nd and 3rd Reading: February 13, 2018  
Emergency Section Agreed to: February 13, 2018  
Notice of publication: Tri-County Press, February 21, 2018

**VILLAGE OF EVENDALE, OHIO  
ORDINANCE # 18-16**

**AN ORDINANCE AMENDING CHAPTER 1263, WIRELESS  
COMMUNICATIONS TOWERS AND SYSTEMS, OF THE  
EVENDALE ZONING CODE AND DECLARING AN EMERGENCY.**

- WHEREAS,** “Small Cell” wireless facilities are a new wireless transmission technology which are growing in prevalence in the State of Ohio; and
- WHEREAS,** the Village of Evendale regulates the permitting, location, and installation of wireless communications towers and systems within the Village under Chapter 1263 of the Evendale Zoning Code; and
- WHEREAS,** the current Chapter 1263 of the Evendale Zoning Code, enacted in 2012, does not account for the newer “small cell” wireless technology; and
- WHEREAS,** the Ohio legislature passed SB 331 in 2017, which would allow wireless telecommunication providers the ability to deploy small cell wireless infrastructure in a municipality's right of way without affording a municipalities ability to control many aspects of the deployment of the new technology in their communities; and
- WHEREAS,** the Hamilton County Common Pleas Court and other courts within the State of Ohio subsequently found the bill regarding small cell wireless facilities to be unconstitutional; and
- WHEREAS,** there are currently no state or local regulations in effect which would control the manner in which small cell wireless facilities are deployed and installed within the Village of Evendale; and
- WHEREAS,** the Council of the Village of Evendale wishes to enact regulations in its Zoning Code which would control the location and installation of such equipment within the Village, and permitting and administration thereof, as it does other wireless telecommunications facilities; and
- WHEREAS,** the Planning Commission conducted a public hearing, with proper notice, on January 22, 2018, regarding proposed amendments to Chapter 1263 of the Evendale Zoning Code; and
- WHEREAS,** on January 22, 2018, the Planning Commission unanimously voted to recommend approval of the proposed amendments to Chapter 1263 as found on the attached Exhibit A; and
- WHEREAS,** the Council of the Village of Evendale has conducted a public hearing on this ordinance; and

**WHEREAS,** the Council of the Village of Evendale finds it appropriate to amend the Zoning Code of the Village of Evendale to allow for the regulation of small cell wireless facilities, consistent with its regulation of other wireless telecommunications equipment within the Village; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EVENDALE, STATE OF OHIO, six members concurring, that:

**SECTION 1:** Part Twelve, Title Two, Chapter 1263, is hereby amended to read as provided in the attached Exhibit A, incorporated by reference herein.

**SECTION 2:** This ordinance is declared to be an emergency measure by a concurrence of six members of Council, it being necessary to preserve the public peace, order, safety, health or welfare of the Village of Evendale, or to provide for the daily operation of a department or office of the Village of Evendale. The reason for said emergency is allow for the regulation of a wireless technology which is currently unregulated within the Village and for which the Village seeks to limit and guide location of such facilities in a manner similar to that of other types of wireless telecommunications equipment. Therefore, this ordinance shall become effective immediately.

Approved February 13, 2018

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to Form:

\_\_\_\_\_  
Village Solicitor

1st Reading: February 13, 2018

Rules Suspended: February 13, 2018

2nd and 3rd Reading: February 13, 2018

Emergency Section Agreed to: February 13, 2018

Notice of publication: Tri-County Press, February 21, 2018