

1 ORDINANCE NO. 2012-195

2
3 SPONSOR Mr. Pry and Mr. Kostandaras

4 DATE June 4, 2012 COMMITTEE Public Works

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6
7 **An Ordinance enacting Section 339.14 of the Codified Ordinances of the County of**
8 **Summit, entitled "Roadway Use, Repair and Maintenance Agreement," requiring that**
9 **persons or business entities engaging in activities that would subject County roadways and**
10 **bridges to frequent and sustained use to execute a "Roadway Use and Maintenance**
11 **Agreement", for the Engineer and the Executive, and declaring an emergency.**

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13 WHEREAS, certain types of activities require will require frequent and sustained use of a
14 County roadway or bridge or a township roadway by commercial trucks and similar vehicles,
15 regardless of whether the vehicles are overweight or oversized; and

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17 WHEREAS, such frequent and sustained use can result in excessive wear and tear which
18 would require the County or a township to expend funds to repair and maintain a damaged
19 roadway or bridge; and

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21 WHEREAS, in order to address such concerns, the County Engineer proposes that this
22 Council adopt an ordinance requiring that persons or business entities engaging in activities that
23 would subject County roadways and bridges to frequent and sustained use to execute a
24 "Roadway Use and Maintenance Agreement" and deliver to the County a performance assurance
25 bond with surety coverage for affected roadways and bridges, and where authorized by township
26 trustees, require execution of the Agreement and delivery of the bond for township roads; and

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28 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
29 that it is necessary and in the best interest of the County of Summit to enact Section 339.14 of
30 the Codified Ordinances of the County of Summit, entitled "Roadway Use, Repair and
31 Maintenance Agreement," for the aforementioned reasons;

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33 NOW, THEREFORE, IT IS HEREBY ORDAINED by the Council of the County of
34 Summit, State of Ohio, that:

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36 SECTION 1

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38 Section 339.14 of the Codified Ordinances of the County of Summit, entitled "Roadway
39 Use, Repair and Maintenance Agreement," is hereby enacted as follows:

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41 **"339.14 ROADWAY USE, REPAIR AND MAINTENANCE AGREEMENT.**

42 **(a) Application. Except as provided in division (d) of this section, "roadway" as used**
43 **in this section shall mean "county road" as defined in section 5535.01 of the Ohio Revised Code.**

44 **(b) Roadway use, repair and maintenance agreement; when required. Where, in the**
45 **opinion of the County Engineer, a proposed activity will require frequent and sustained use of a**
46 **roadway and/or bridge by commercial trucks and similar vehicles, regardless of whether the**
47 **vehicles are overweight or oversized, the person or business entity which will be engaging in the**
48 **activity shall execute, prior to using the roadway and/or bridge for the activity, a "Roadway Use,**
49 **Repair and Maintenance Agreement" (the "Agreement") with the County of Summit. The**
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4 SECTION 1 (cont'd.)

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6 Agreement shall be in a form approved by the County Executive, County Engineer and County
7 Prosecutor. The following activities shall require the execution of the Agreement:

- 8 (1) Oil and natural gas drilling;
9 (2) Mining;
10 (3) Gravel pits or yards;
11 (4) Trucking terminals or trucking transfer stations;
12 (5) Major earthmoving projects;
13 (6) Landfills;
14 (7) Wind farms;
15 (8) Any other activity that, in the opinion of the County Engineer, would
16 require the County or township to incur additional costs to maintain a
17 roadway as a result of the activity.

18 (c) Roadway use, repair and maintenance agreement; when executed; performance
19 assurance bond. No person or business entity, or any employee, agent or representative of a
20 person or business entity, shall engage in any activity set forth in divisions (b)(1) through (8) of
21 this section, except where:

- 22 (1) The person or business entity has executed and delivered to the County the
23 Agreement; and
24 (2) The person or business entity has secured and delivered to the County a
25 performance assurance bond in the amount of \$200,000.00 of surety
26 coverage per mile of designated road and \$250,000.00 of surety coverage
27 per bridge as defined in the Agreement.

28 (d) Township roads. This section shall apply to township roads, as defined by section
29 5535.01 of the Ohio Revised Code, where a township's trustees have requested that the County
30 assume authority and control over the road for the purposes of issuance of a permit under this
31 section and the trustees have executed the Agreement."

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33 SECTION 2

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35 This Ordinance is hereby declared to be an emergency measure in the interest of the
36 health, safety and welfare of the citizens of the County of Summit, Ohio, and for the further
37 reason that it is necessary in order to immediately enact Section 339.14 of the Codified
38 Ordinances to ensure that County roadways and bridges and townships roadways are repaired
39 and maintained where subjected to frequent and sustained use by certain activities.

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41 SECTION 3

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43 Provided this Ordinance receives the affirmative vote of eight members, it shall take
44 effect immediately upon its adoption and approval by the Executive; otherwise, it shall take
45 effect and be in force at the earliest time provided by law.

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47 SECTION 4

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49 It is found and determined that all formal actions of this Council concerning and relating
50 to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all
51 were in meetings open to the public, in compliance with all legal requirements, including Section
52 121.22 of the Ohio Revised Code.
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INTRODUCED May 14, 2012

ADOPTED June 4, 2012


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED June 5, 2012


EXECUTIVE

ENACTED EFFECTIVE June 5, 2012

Voice Vote: 11-0. YES: Comunale, Crawford, Feeman, Kostandaras
Kurt, Lee, Prentice, Rodgers, Roemer, Schmidt, Shapiro