

ORDINANCE NO. 2019-114

AN ORDINANCE ACCEPTING A DONATION IN THE AMOUNT OF \$250.00 TO THE CITY OF KENT PARKS & RECREATION DEPARTMENT TO SUPPORT THE TORCH FEST HELD ON JUNE 20, 2019, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent Parks & Recreation Department has received the following donation from the Friends of the Crooked River in the amount of \$250.00 to support the Torch Fest held on June 20, 2019; and

WHEREAS, the City wishes to accept said donation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That Council does hereby authorize the City Manager on behalf of the City of Kent to accept the donation of \$250.00 to support the Torch Fest held on June 20, 2019.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 10/16/19 \_\_\_\_\_  
Date Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: 10/16/19 \_\_\_\_\_  
Date

ATTEST: Amy Wilkens \_\_\_\_\_  
Amy Wilkens  
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2019-114, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON October 16, 2019.

(SEAL)

Amy Wilkens  
AMY WILKENS  
CLERK OF COUNCIL  
(SEAL)

**RESOLUTION NO. 2019-115**

**A RESOLUTION DECLARING IT NECESSARY TO RENEW THE CITY'S EXISTING 1.16-MILL TAX LEVY FOR THE PURPOSE OF CURRENT EXPENSES; REQUESTING THE COUNTY AUDITOR TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE CITY AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THAT RENEWAL LEVY, PURSUANT TO SECTIONS 5705.03, 5705.19(A) AND 5705.191 OF THE REVISED CODE, AND DECLARING AN EMERGENCY.**

**WHEREAS**, at an election on November 4, 2014, voters of the City of Kent approved a 1.16-mill tax levy outside of the ten-mill limitation for the purpose of current expenses, for a period of five years; and

**WHEREAS**, the authority to levy that 1.16-mill tax will expire with the levy on the 2019 duplicate for collection in calendar year 2020; and

**WHEREAS**, this Council finds that the amount of taxes that may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the City, and that it is necessary to renew that existing 1.16-mill tax levy in excess of the ten-mill limitation in order to continue receiving revenue for the purpose of current expenses; and

**WHEREAS**, in accordance with Division (B) of Section 5705.03 of the Revised Code, in order to submit the question of a tax levy pursuant to Sections 5705.19(A) and 5705.191 of the Revised Code, this Council must first request that the Portage County Auditor certify (i) the total current tax valuation of the City and (ii) the dollar amount of revenue that would be generated by the levy; and

**WHEREAS**, in further accordance with Division (B) of Section 5705.03 of the Revised Code, upon receipt of a certified copy of a resolution of this Council declaring the necessity of a tax, stating its purpose, whether it is an additional levy, a renewal or a replacement of an existing tax, or the renewal or replacement of an existing tax with an increase or a decrease, the Section or Sections of the Revised Code authorizing the submission of the question of the tax, the term of years of the tax (or that it is for a continuing period of time), that the tax is to be levied upon the entire territory of the City, the date of the election at which the question of the tax shall appear on the ballot, that the ballot measure shall be submitted to the entire territory of the City, the tax year in which the tax will first be levied and the calendar year in which it will be first collected and each county in which the City has territory, and requesting such certification, the County Auditor is to certify the total current tax valuation of the City and the dollar amount of revenue that would be generated by the proposed levy;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** That this Council declares that (i) it is necessary to renew the City's existing 1.16-mill ad valorem property tax outside of the ten-mill limitation for the purpose of current expenses, (ii) as authorized by Sections 5705.19(A) and 5705.191 of the Revised Code, it intends to submit the question of a 1.16-mill renewal tax levy for that purpose to the electors of the entire territory of the City at an election on March 17, 2020, and (iii) the City has territory only in Portage County. If approved, that tax will be levied upon the entire territory of the City for a period of five years, commencing in tax year 2020, for first collection in calendar year 2021.

**SECTION 2.** That this Council requests the Portage County Auditor to certify to it both (i) the total current tax valuation of the City and (ii) the dollar amount of revenue that would be generated by the 1.16-mill renewal levy specified in Section 1.

**SECTION 3.** That the Clerk of Council is authorized and directed to deliver promptly to the Portage County Auditor a certified copy of this Resolution.

**SECTION 4.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 5.** That this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City and for the further reason that it is necessary that this Resolution be effective immediately so that it can be timely filed with the County Auditor and additional proceedings taken in order to submit the question of the levy to the electors at an election on March 17, 2020; for which reason and other reasons manifest to this Council this Resolution shall take effect and be in force immediately upon its adoption.

ADOPTED: 10/16/19  
Date

Fiala  
Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: 10/16/19  
Date

ATTEST: Amy Wilkens  
Amy Wilkens  
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF RESOLUTION No. 2019-115, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON OCTOBER 16, 2019.

(SEAL)

Amy Wilkens  
AMY WILKENS  
CLERK OF COUNCIL

ORDINANCE NO. 2019-116

AN ORDINANCE AMENDING ORDINANCE NO. 2018-142, THE CURRENT APPROPRIATION ORDINANCE, PASSED DECEMBER 19, 2018; SO AS TO ADJUST APPROPRIATIONS, TRANSFERS AND ADVANCES FROM THE VARIOUS FUNDS OF THE CITY OF KENT TO INDIVIDUAL ACCOUNTS FOR THE CURRENT EXPENSES OF THE CITY FOR THE FISCAL YEAR ENDING DECEMBER 31, 2019; AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary to amend current appropriations, transfers and advances for the expenses and other expenditures for the City of Kent, Ohio, for the fiscal year ending December 31, 2019.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** That the current appropriation Ordinance No. 2018-142 passed December 19, 2018; as amended by Ordinance No. 2019-16, passed 2/20/2019; as amended by Ordinance No. 2019-43, passed 4/17/2019; as amended by Ordinance 2019-57 passed 5/15/2019; as amended by Ordinance 2019-64 passed 6/19/2019; as amended by Ordinance 2019-93 passed 8/21/2019; and as amended by Ordinance 2019-112 passed 9/18/2019, be amended as set forth in Exhibit "A", attached hereto and incorporated herein, so as to increase appropriations in Fund 201, Water; Fund 301, Capital; and Fund 303, Police Facility; and so as to transfer appropriations within Fund 201, Water; and Declaring An Emergency.

**SECTION 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formation action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents of this City, for which reason and other reason manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediate after passage.

PASSED: 10/16/19  
Date

Fiala  
Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: 10/16/19  
Date

ATTEST: Amy Wilkens  
Amy Wilkens  
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2019-116, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON October 16, 2019.

(SEAL)

Amy Wilkens  
AMY WILKENS  
CLERK OF COUNCIL

2019 AMENDED APPROPRIATIONS

<u>Fund - Department/Division</u>	<u>Personnel &amp; Benefits</u>	<u>Other than Personnel &amp; Benefits</u>	<u>Capital</u>	<u>Reserve/ Debt Service</u>	<u>Contingency</u>	<u>Fund &amp; Department Total</u>
<b>General Fund (001)</b>						
City Council	\$161,266	\$32,603				\$193,869
Mayor	\$9,530	\$5,300				\$14,830
Community Support		\$85,700				\$85,700
City Manager	\$314,000	\$62,923				\$376,923
New City Hall Facility		\$0	\$188,000			\$188,000
Information Technology	\$80,395	\$250,087				\$330,482
Urban Renewal		\$67,300				\$67,300
Human Resources	\$61,964	\$19,488				\$81,452
Civil Service	\$31,105	\$41,523				\$72,628
Law	\$320,560	\$118,895				\$439,455
Budget & Finance	\$185,199	\$143,585				\$328,784
Community Development	\$597,546	\$208,070				\$805,616
Economic Development	\$119,722	\$49,811				\$169,533
Health	\$448,125	\$207,038				\$655,163
Public Parking		\$126,000				\$126,000
Main Street Program		\$70,000				\$70,000
Service Administration	\$70,060	\$477,118				\$547,178
Shade Tree		\$80,420	\$10,000			\$90,420
Adjunct Facilities		\$1,100				\$1,100
Building	\$305,506	\$68,272				\$373,778
Land banking		\$10,000				\$10,000
Engineering	\$231,502	\$106,842				\$338,344
Miscellaneous & Sundry		\$380,750				\$380,750
Contingency					\$100,000	\$100,000
Fund Total	\$2,936,480	\$2,612,825	\$198,000	\$0	\$100,000	\$5,847,305
<b>West Side Fire (101)</b>						
Fire	\$268,910	\$26,427				\$295,337
Fund Total	\$268,910	\$26,427	\$0	\$0	\$0	\$295,337
<b>Street Construction Maintenance &amp; Repair (102)</b>						
Service	\$1,137,201	\$1,369,261				\$2,506,462
Contingency					\$25,000	\$25,000
Fund Total	\$1,137,201	\$1,369,261	\$0	\$0	\$25,000	\$2,531,462
<b>State Highway (103)</b>						
Service		\$70,000				\$70,000
Fund Total	\$0	\$70,000	\$0	\$0	\$0	\$70,000
<b>Recreation (106)</b>						
Parks & Recreation	\$1,372,462	\$666,383	\$322,000			\$2,360,845
Fund Total	\$1,372,462	\$666,383	\$322,000	\$0	\$0	\$2,360,845
<b>Food Service (107)</b>						
Health	\$101,005	\$7,500				\$108,505
Fund Total	\$101,005	\$7,500	\$0	\$0	\$0	\$108,505

2019 AMENDED APPROPRIATIONS

<u>Fund - Department/Division</u>	<u>Personnel &amp; Benefits</u>	<u>Other than Personnel &amp; Benefits</u>	<u>Capital</u>	<u>Reserve/ Debt Service</u>	<u>Contingency</u>	<u>Fund &amp; Department Total</u>
<b><u>Income Tax (116)</u></b>						
Budget/Finance/IncTaxAdmin	\$269,714	\$526,683				\$796,397
Managed Reserve				\$25,540		\$25,540
Fund Total	\$269,714	\$526,683	\$0	\$25,540	\$0	\$821,937
<b><u>Revolving Housing (120)</u></b>						
Health	\$156,431	\$10,500				\$166,931
Fund Total	\$156,431	\$10,500	\$0	\$0	\$0	\$166,931
<b><u>State &amp; Local Forfeits (121)</u></b>						
Police		\$2,000				\$2,000
Fund Total	\$0	\$2,000	\$0	\$0	\$0	\$2,000
<b><u>Drug Law Enforcement (122)</u></b>						
Police		\$12,000				\$12,000
Fund Total	\$0	\$12,000	\$0	\$0	\$0	\$12,000
<b><u>Enforcement &amp; Education (123)</u></b>						
Police		\$6,000				\$6,000
Fund Total	\$0	\$6,000	\$0	\$0	\$0	\$6,000
<b><u>Income Tax Safety (124)</u></b>						
Police	\$7,010,447	\$677,700				\$7,688,147
Fund Total	\$7,010,447	\$677,700	\$0	\$0	\$0	\$7,688,147
<b><u>Law Enforcement Trust (125)</u></b>						
Police						\$0
Fund Total	\$0	\$0	\$0	\$0	\$0	\$0
<b><u>Community Development Block Grant (126)</u></b>						
Community Development	\$8,453	\$274,600	\$116,000			\$399,053
Fund Total	\$8,453	\$274,600	\$116,000	\$0	\$0	\$399,053
<b><u>Neighborhood Stabilization (127)</u></b>						
Community Development	\$0	\$139,100				\$139,100
Fund Total	\$0	\$139,100	\$0	\$0	\$0	\$139,100
<b><u>Fire &amp; E.M.S. (128)</u></b>						
Fire	\$4,745,381	\$470,724	\$1,120,215			\$6,336,320
Fund Total	\$4,745,381	\$470,724	\$1,120,215	\$0	\$0	\$6,336,320
<b><u>Wireless 911 (129)</u></b>						
Safety		\$0				\$0
Fund Total	\$0	\$0	\$0	\$0	\$0	\$0
<b><u>Swimming Pool Inspections (130)</u></b>						
Health	\$8,261	\$500				\$8,761
Fund Total	\$8,261	\$500	\$0	\$0	\$0	\$8,761

2019 AMENDED APPROPRIATIONS

<u>Fund - Department/Division</u>	<u>Personnel &amp; Benefits</u>	<u>Other than Personnel &amp; Benefits</u>	<u>Capital</u>	<u>Reserve/ Debt Service</u>	<u>Contingency</u>	<u>Fund &amp; Department Total</u>
<b><u>Police Pension (132)</u></b>						
Police	\$120,000					\$120,000
Fund Total	\$120,000	\$0	\$0	\$0	\$0	\$120,000
<b><u>Fire Pension (133)</u></b>						
Fire	\$120,000					\$120,000
Fund Total	\$120,000	\$0	\$0	\$0	\$0	\$120,000
<b><u>UDAG / EDA-RLF (134)</u></b>						
City Manager/C.D.		\$110,000				\$110,000
Fund Total	\$0	\$110,000	\$0	\$0	\$0	\$110,000
<b><u>Water (201)</u></b>						
Service	\$1,739,036	\$859,705	\$217,578			\$2,816,319
Service (Capital Facilities)			\$2,061,559			\$2,061,559
Admin. Support	\$602,794	\$71,655	\$14,000			\$688,449
Budget & Finance (Debt)				\$54,608		\$54,608
Contingency					\$25,000	\$25,000
Fund Total	\$2,341,830	\$931,360	\$2,293,137	\$54,608	\$25,000	\$5,645,935
<b><u>Sewer (202)</u></b>						
Service	\$2,027,611	\$868,684	\$468,381			\$3,364,676
Service (Capital Facilities)			\$2,274,508			\$2,274,508
Admin. Support	\$602,794	\$84,156	\$14,000			\$700,950
Budget & Finance (Debt)				\$625,720		\$625,720
Contingency					\$50,000	\$50,000
Fund Total	\$2,630,405	\$952,840	\$2,756,889	\$625,720	\$50,000	\$7,015,854
<b><u>Utility Billing (204)</u></b>						
Budget & Finance		\$102,586				\$102,586
Fund Total	\$0	\$102,586	\$0	\$0	\$0	\$102,586
<b><u>Solid Waste (205)</u></b>						
Service	\$87,660	\$147,953	\$5,000			\$240,613
Fund Total	\$87,660	\$147,953	\$5,000	\$0	\$0	\$240,613
<b><u>Storm Water Utility (208)</u></b>						
Service	\$240,982		\$27,750			\$268,732
Service (Capital Facilities)			\$1,798,157			\$1,798,157
Admin. Support	\$319,162	\$69,371	\$9,000			\$397,533
Budget & Finance (Debt)				\$9,968		\$9,968
Fund Total	\$560,144	\$69,371	\$1,834,907	\$9,968	\$0	\$2,474,390
<b><u>Guaranteed Deposits (230)</u></b>						
Budget & Finance		\$1,000				\$1,000
Fund Total	\$0	\$1,000	\$0	\$0	\$0	\$1,000

2019 AMENDED APPROPRIATIONS

<u>Fund - Department/Division</u>	<u>Personnel &amp; Benefits</u>	<u>Other than Personnel &amp; Benefits</u>	<u>Capital</u>	<u>Reserve/Debt Service</u>	<u>Contingency</u>	<u>Fund &amp; Department Total</u>
<b>Capital Projects (301)</b>						
Safety			\$402,900			\$402,900
Service			\$810,000			\$810,000
Service (Capital Facilities)			\$4,314,431			\$4,314,431
Community Development			\$22,000			\$22,000
Admin. Support			\$9,000			\$9,000
Budget & Finance			\$100,000	\$554,828		\$654,828
Contingency					\$25,000	\$25,000
Fund Total	\$0	\$0	\$5,658,331	\$554,828	\$25,000	\$6,238,159
<b>Municipal Public Improvement Tax Increment Equivalent (302)</b>						
Service (Capital Facilities)		\$6,000				\$6,000
Budget & Finance (Debt)				\$1,447,936		\$1,447,936
Fund Total	\$0	\$6,000	\$0	\$1,447,936	\$0	\$1,453,936
<b>Police Facility (303)</b>						
Safety (Capital Facilities)		\$260,000	\$588,603			\$848,603
Budget & Finance (Debt)				\$3,961,479		\$3,961,479
Fund Total	\$0	\$260,000	\$588,603	\$3,961,479	\$0	\$4,810,082
<b>Debt Service (402)</b>						
Budget & Finance (Debt)				\$70,084		\$70,084
Fund Total	\$0	\$0	\$0	\$70,084	\$0	\$70,084
<b>Internal Service (807)</b>						
Health Insurance		\$3,385,000				\$3,385,000
Fund Total	\$0	\$3,385,000	\$0	\$0	\$0	\$3,385,000
<b>Total Appropriations</b>						
	\$23,874,784	\$12,838,313	\$14,893,082	\$6,750,163	\$225,000	\$58,581,342
<b>Original Appropriations</b>						
Original Appropriations	\$23,633,784	\$11,862,557	\$8,633,900	\$6,750,163	\$250,000	\$51,130,404
Amendment #1	\$231,000	\$260,500	\$4,562,718			\$5,054,218
Amendment #2		\$238,000	\$302,000			\$540,000
Amendment #3		\$302,800	\$629,000			\$931,800
Amendment #4		\$97,000	\$128,146			\$225,146
Amendment #5	\$10,000	\$33,371	\$408,715			\$452,086
Amendment #6		\$19,085	\$44,000			\$63,085
Amendment #7		\$25,000	\$184,603		(\$25,000)	\$184,603
Amendment #8						\$0
	\$23,874,784	\$12,838,313	\$14,893,082	\$6,750,163	\$225,000	\$58,581,342



2019 AMENDED APPROPRIATIONS - SCHEDULE OF OPERATING TRANSFERS AND TEMPORARY ADVANCES

<u>Operating Transfers</u>	<u>Paying Fund</u>	<u>Original</u>	<u>Current Request</u>	<u>Change</u>	<u>Receiving Fund</u>
Fund 116 - Income Tax		\$3,600,000	\$3,600,000	\$0	Fund 001 - General
Fund 116 - Income Tax		\$1,000,000	\$1,000,000	\$0	Fund 102 - St Const Maint & Repair
Fund 116 - Income Tax		\$3,523,933	\$3,523,933	\$0	Fund 124 - Income Tax Safety
Fund 116 - Income Tax		\$3,523,933	\$3,523,933	\$0	Fund 128 - Fire & E.M.S.
Fund 116 - Income Tax		\$3,031,933	\$3,237,674	\$205,741	Fund 301 - Capital Projects
Fund 116 - Income Tax		\$1,761,966	\$1,689,459	(\$72,507)	Fund 303 - Police Facility
Fund 116 - Income Tax		\$70,000	\$70,000	\$0	Fund 402 - Debt Service
Total Fund 116 Income Tax		\$16,511,765	\$16,644,999	\$133,234.00	
Fund 201 - Water		\$45,930	\$45,930	\$0	Fund 204 - Utility Billing
Fund 202 - Sewer		\$45,930	\$45,930	\$0	Fund 204 - Utility Billing
Fund 001 - General		\$3,200,000.00	\$3,200,000.00	\$0	Fund 124 - Income Tax Safety
Fund 001 - General		\$120,000.00	\$120,000.00	\$0	Fund 106 - Parks and Rec
Fund 001 - General		\$2,000,000.00	\$2,000,000.00	\$0	Fund 128 - Fire & EMS
Subtotal - Total Operating Transfers		\$5,411,860	\$5,411,860	\$0.00	
<u>Temporary Advances</u>					
Fund 106 - Recreation		\$50,000	\$50,000	\$0	Fund 001 - General
Fund 201 - Water		\$32,100	\$32,100	\$0	Fund 116 - Income Tax
Fund 202 - Sewer		\$38,980	\$38,980	\$0	Fund 116 - Income Tax
Fund 205 - Solid Waste		\$56,000	\$56,000	\$0	Fund 001 - General
Fund 205 - Solid Waste		\$53,000	\$53,000	\$0	Fund 116 - Income Tax
Fund 208 - Storm Water		\$110,000	\$110,000	\$0	Fund 116 - Income Tax
Subtotal - Total Advances		\$340,080	\$340,080	\$0	
Grand Total - All Transfers & Advances		\$22,263,705	\$22,396,939	\$133,234	

\* Designates Repayment of Advance

**ORDINANCE 2019-117**

**AN ORDINANCE AMENDING CHAPTER 939 OF THE STREETS, UTILITIES AND PUBLIC SERVICES CODE, "USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES", AND DECLARING AN EMERGENCY.**

**WHEREAS**, Substitute House Bill 478 (Sub. H.B. 478) took effect on August 1, 2018 and amended ORC Chapter 4939 with regard to the authority of municipalities to regulate the installation of small cell wireless facilities in the public right-of-way, including on utility poles and street lights, including municipally-owned facilities, and to construct, maintain, modify, operate, or replace wireless support structures in the right-of-way; and

**WHEREAS**, this Council on July 18, 2018 adopted Ordinance No. 2018-84 creating a new Chapter 939 of the Codified Ordinances of the City of Kent, "Use Of Public Ways For Small Cell Wireless Facilities And Wireless Support Structures," to regulate the use and occupancy of the public rights-of-way within the City for small cell wireless facilities and support structures and to authorize Design Guidelines for Small Cell Facilities and Wireless Support Structures within the public rights-of-way within the city; and

**WHEREAS**, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Order known as the "Small Cell Order," that limited and revised state and local regulatory authority concerning certain small cell wireless installations within public rights-of-way nationwide; and

**WHEREAS**, on July 17, 2019, this Council amended Chapter 939 of the Code, "Use Of Public Ways For Small Cell Wireless Facilities And Wireless Support Structures" to lawfully exercise municipal authority on this subject in a manner that is consistent with Ohio Revised Code Chapter 4939 and the FCC's Small Cell Order; and

**WHEREAS**, this Council herein determines to further amend Chapter 939 to be consistent with the City's Small Cell Facilities Use Permit Application, recently updated in order to reflect the FCC Small Cell Order.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** Chapter 939 "Use Of Public Ways For Small Cell Wireless Facilities And Wireless Support Structures" of the Streets, Utilities, and Public Services Code, of the Codified Ordinances of the City of Kent be amended to read as follows:

**"CHAPTER 939  
USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS  
SUPPORT STRUCTURES**

**939.01 OVERVIEW AND PURPOSE; DEFINITIONS; AUTHORITY TO  
PROMULGATE DESIGN GUIDELINES**

- (a) The purpose of this Chapter is to:
- (1) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the City's

Right-of-Way to protect the health, safety, and welfare of the citizens of the City;

- (2) Preserve the character of the City, including the City's neighborhoods, downtown, other business districts and historic districts;
  - (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities and Wireless Support Structures; and
  - (4) Comply with, and not conflict with or preempt, all applicable state and federal law; and
  - (5) Facilitate deployment of small cell Facilities and advanced wireless communications within the City in a manner that complies with the requirements of this Chapter and does not materially inhibit such deployment or the provision or availability of advanced wireless communications.
- (b) For the purpose of this Chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:
- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
  - (2) "Application" means all necessary documentation submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.
  - (3) "Accessory Equipment" means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.
  - (4) "City" means City of Kent.
  - (5) "Collocation" or "Collocate" means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
  - (6) "Design Guidelines" means standards applicable to Small Cell Equipment and Wireless Support Structures in the Right-of-Way, promulgated by the Director of Community Development.
  - (7) "Facilities" means, for the purposes of this Chapter, Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.

- (8) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
- (i) Operators;
  - (ii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to O.R.C. Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
  - (iii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to O.R.C. Section 4939.033 and who have obtained a Small Cell Use Permit.
- (9) "Eligible Facilities or Eligible Support Structure Request" means any request for modification of an existing support structure or base station that does not *substantially change* the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:
- (i) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
  - (ii) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;
  - (iii) The installation for any new ground-mounted equipment cabinets if there are not existing ground-mounted equipment cabinets;
  - (iv) Any excavation or deployment outside of the current site of the Facility;
  - (v) Removal of any concealment elements of the Facilities or the Wireless Support Structure; and
  - (vi) Any change that does not comply with this Chapter, the Design Guidelines promulgated by the Director of Community Development, or state or federal law and regulations.

The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the Spectrum Act on February 22, 2012.)

- (10) "Operator" means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.
- (11) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.
- (12) "Small Cell Facility" means a wireless facility:
- (A) That meets both of the following requirements:
    - (i) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and
    - (ii) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
  - (B) That includes a "Small Wireless Facility," which is a type of Small Cell Facility (i) in which each antenna is located within an enclosure of not more than three (3) cubic ~~fee~~feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than three (3) cubic feet in volume, (ii) where such antenna is associated with a structure (a) 50 feet or less in height, including the antenna, or (b) that is not more than 10 percent taller than adjacent structures, or (c) is not extended in height by more than 10 percent or to a height exceeding 50 feet, whichever is greater, and (iii) which also otherwise satisfies the definition of "Small Wireless Facilities" found in the FCC's Small Cell Order adopted September 26, 2018, FCC 18-133.
- (13) "Small Cell Equipment" means a Small Cell Facility and all Accessory Equipment.

- (14) "Small Cell Use Permit" means the permit granted by the City authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
- (15) "Wireless Support Structure" means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this Chapter, "Wireless Support Structure" excludes the following except in connection with a Small Wireless Facility, in which case the following are not excluded:
  - (i) A utility pole or other facility owned or operated by a municipal electric utility; and
  - (ii) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.
- (c) The Director of Community Development is authorized and directed to promulgate written Design Guidelines for Small Cell Facilities with objective, technologically feasible criteria

**939.02 CONSENT REQUIRED**

- (a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the Development Engineer in accordance with the requirements in this Chapter, Design Guidelines established by the Director of Community Development, O.R.C. Chapter 4939, and all applicable state and federal laws and regulations.
- (b) If the Applicant receives a Small Cell Use Permit, then the Applicant shall not be required to obtain separate Consent to Occupy or Use the Public Right-of-Way under Section 937.02 of the Codified Ordinances to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
- (c) Applicants are strongly encouraged to contact the Development Engineer and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the City.
- (d) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines established by the Director of Community Development. Further, no Small Cell Use Permit shall be construed as any warranty of title.

### 939.03 PERMIT APPLICATION TYPES

Applicants shall classify their Application as one of the following types:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that ~~does is~~ not constitute an Eligible Facilities Request.
- (c) Type 3: New Wireless Support Structure. Such applications will address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.
- (d) For Type 2 and Type 3 Applications, Applicants shall indicate whether the Application ~~is or is not for~~ does or does not include or relate to a Small Wireless Facility.
  - (1) If an application involves a Small Wireless Facility, any related required permits will be issued within the designated review period set forth below, if applications for such permits are filed no later than the application for the Small Cell Facilities Use Permit.

### 939.04 CONSOLIDATED CONSENT APPLICATIONS

- (a) Pursuant to O.R.C. Section 4939.0312, an Applicant may file one consolidated application for up to ~~thirty (30) individual small cell Facilities or thirty (30) individual Wireless Support Structures~~ as long as the facilities or structures for which consent is requested are substantially similar.
  - (1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
  - (2) Wireless Support Structures shall be considered substantially similar when the Wireless Support Structures are identical in type, size, appearance and function and are to be located in a similar location.
  - (3) Applications for Small Cell Facilities and Equipment cannot be combined with applications for Wireless Support Structures cannot be commingled, unless the Small Cell Facility involved is a Small Wireless Facility as defined in Section 939.01(b)(12)(B).
  - (4) Applications for Small Wireless Facilities cannot be combined with applications for Small Cell Facilities and Equipment, or Wireless Support Structures, that do not involve Small Wireless Facilities.
  - (5) If an application for a new Wireless Support Structure is related to an application for Small Wireless Facility antenna to be collocated thereupon, those applications may be filed on a consolidated basis but will be considered separate applications subject to separate application fees.

- (b) The City may, at its discretion, require separate Applications for any Small Cell Facilities or Wireless Support Structures that are not substantially similar.
- (c) Although applications ~~for involving~~ Small Wireless Facilities may be filed on a consolidated basis, such applications involving Small Wireless Facilities may not be commingled with applications for other Small Cell Facilities or collocation, or new Wireless Support Structures, that do not involve a Small Wireless Facility. The limit on the number of applications that may be filed in a consolidated application pursuant to Section 939.04(a) shall not apply to applications involving Small Wireless Facilities.

(1) There is no limit on the number of Small Wireless Facilities applications that may be consolidated.

#### **939.05 APPLICATION FEE**

- (a) The fee for each application is Two Hundred Fifty Dollars (\$250.00). The fee shall be adjusted upward by ten percent (10%) every five years, rounded to the nearest Five (5) Dollars, beginning in the year 2023.
- (b) An Application shall not be deemed complete until the fee is paid.
- (c) If Applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) multiplied by the total number of Facilities or Wireless Support Structures included in the consolidated Application. This provision also applies when an application for a new Wireless Support Structure is related to an application for a Small Wireless Facility to be collocated thereupon; that is, this situation requires two applications, each application is subject to the fee provided in Section 939.05(a).

#### **939.06 ATTACHMENT FEE**

- (a) In addition to the Application Fee, an annual fee shall be paid to the City for each Small Cell Facility attached to a municipally-owned Wireless Support is Two Hundred Dollars (\$200.00). The fee shall be adjusted upward by ten percent (10%) every five years, rounded to the nearest five (5) dollars, beginning in the year 2023.
- (b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

#### **939.07 REQUIRED APPLICATION MATERIALS**

The Applicant must submit three (3) copies of the following documentation with each Application.

- (a) Completed Application form including the identity, legal status and federal tax identification number of the Applicant, as well as all affiliates and agents of the Applicant that will use or be, in any way, responsible for the Facilities.



- (b) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.
- (c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:
  - (1) The exact proposed location of the Facilities within the Right-of-Way;
  - (2) All existing Facilities with all existing transmission equipment;
  - (3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities.
  - (4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;
  - (5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and
  - (6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.
- (d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.
- (e) Evidence that the Applicant provided notice by mail to all property owners within 300 feet of the proposed Facilities prior to submitting the Application. The notice shall include:
  - (1) Name of the Applicant;
  - (2) Estimated date Applicant intends to submit the Application;
  - (3) Detailed description of the proposed Facilities and the proposed location; and
  - (4) Accurate, to-scale photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet.
- (f) A preliminary installation/construction schedule and completion date.
- (g) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.
- (h) Analysis demonstrating that the proposed Facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the Applicant to evaluate, prior to making the Application for a Small Cell Use Permit, the

compatibility between the existing City infrastructure and Applicant's proposed Facilities.

- (i) A landscape plan that demonstrates screening of proposed small cell equipment.
- (j) Drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:
  - (1) The manufacturer's name and model number;
  - (2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
  - (3) The noise level generated by the equipment, if any.
- (k) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities.
- (l) If the Applicant intends to place Small Cell Facilities and Small Cell Equipment on a Wireless Support Structure that is not owned by the VillageCity, then the Applicant shall provide written confirmation of permission to use the Wireless Support Structure upon which the Small Cell Facilities and Small Cell Equipment will be located.

#### **939.08 APPLICATION REVIEW**

- (a) Applications shall be evaluated in the timeframes as follows:
  - (1) Type 1 Applications 60 days
  - (2) Type 2 Applications 90 days, except that for Small Wireless Facilities that are not to be collocated upon a new Wireless Support Structure, the timeframe for a Type 2 Application shall be 60 days.
  - (3) Type 3 Applications 120 days, except that for new Wireless Support Structures upon which a Small Wireless Facility is to be mounted, the timeframe for a Type 3 Application shall be 90 days.
- (b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant will be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete, as described below:
  - (1) To toll the time period for incompleteness, the City must provide written notice to the Applicant, specifically identifying all missing documents or information, within thirty (30) days after receiving the Application; except that where an Applicant has indicated that the Application is for a Small Wireless Facility, or a Wireless Support Structure upon which a Small Wireless Facility is to be mounted, the written notice shall be provided within ten (10) days after receiving the Application.

- (A) In the case of a proper and timely initial written notice of incompleteness provided concerning an Application involving a Small Wireless Facility pursuant to subsection (b)(1), the time period set forth in subsection (a) shall be deemed never to have started running at all until Applicant provides a supplemental submission.
- (2) The time period set forth in subsection (a) will begin to run again when the Applicant provides a supplemental submission in response to the City's notice of incompleteness issued pursuant to subsection (b), but may be tolled again if the City notifies the Applicant in writing, within ten (10) days of receiving a supplemental submission, that the Application remains incomplete and identifies which items specified in the original notice of incompleteness are still missing. Timely notice by the City of the deficiencies in a supplemental submission tolls the time period set forth in subsection (a) until the Applicant supplies the specified information.
- (c) The timeframes in subsection (a) may be tolled by mutual agreement between the Applicant and the City. The timeframes in subsections (a)(2) and (a)(3) may also be tolled as follows, except that where an Applicant has indicated that the Application is for a Small Wireless Facility, the provisions of subsections (c)(1) and (c)(2) below do not apply:
  - (1) If the City receives between fifteen (15) and thirty (30) applications in a thirty-day period, then the City may toll for an additional twenty-one (21) days beginning with the sixteenth (16th) application.
  - (2) If the City receives more than thirty (30) applications in a thirty-day period, then the City may toll for an additional fifteen (15) days for every fifteen (15) applications received, up to a maximum tolling period of ninety (90) days, as indicated below:
 

(A) Applications 31-45:	36 additional days
(B) Applications 46-60:	51 additional days
(C) Applications 61-75:	66 additional days
(D) Applications 76-90:	81 additional days
(E) Applications 91+:	90 additional days
  - (3) When an Applicant submits an underground area waiver pursuant to Section 939.13(d) of the Codified Ordinances, in which case the City may toll for an additional fourteen (14) days.
- (d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 939.16, then the Development Engineer may resolve the conflict in any reasonable and nondiscriminatory manner.
- (e) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of

consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:

- (1) Failure to provide information required under Section 939.07;
- (2) Failure to comply with Design Guidelines promulgated by the Director of Community Development;
- (3) Failure to provide financial surety pursuant to Section 939.15;
- (4) Failure to remove abandoned Facilities as required under Section 939.12;
- (5) Conflict with the historic nature or character of the surrounding area;
- (6) Conflict with planned future improvements in the Right-of-Way; and
- (7) Failure to comply with generally applicable health, safety, and welfare requirements.

#### **939.09 PERMITTING PROCESS, DURATION, AND TERMINATION**

- (a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the City has granted the Applicant consent to occupy the Right-of-Way.
- (b) A Small Cell Use Permit issued to an Operator shall have duration of ten (10) years. Permits may be renewed for five year terms.
- (c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term of ten (10) years or the duration of the Facilities Operator's agreement with a wireless service provider provided pursuant to Section 939.06(k), whichever is shorter.
- (d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with all applicable laws and regulations.
- (e) Pursuant to O.R.C. Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within 180 days of issuance of the permit, unless the delay is caused by:
  - (1) Make-ready work for a municipally-owned Wireless Support Structure; or
  - (2) Due to the lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.