#### **ORDINANCE NO. 2020-49**

AN ORDINANCE CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA KNOWN AS THE DOWNTOWN KENT DESIGNATED OUTDOOR REFRESHMENT AREA, ENACTING REGULATIONS, AND DECLARING AN EMERGENCY.

**WHEREAS,** a municipality with a population of less than thirty-five thousand (35,000) is permitted to create a Designated Outdoor Refreshment Area ("DORA") pursuant to the provisions of Section 4301.82 of the Ohio Revised Code; and

WHEREAS, on May 11, 2020, the Mayor and City Manager submitted an application to Council for approval of a DORA in a specified section of the City of Kent to establish the Downtown Kent Designated Outdoor Refreshment Area (the "DORA" Application). The DORA Application is attached and incorporated herein as Exhibit A; and

**WHEREAS**, pursuant to Section 4301.82(C) of the Ohio Revised Code, notice of the filing of the DORA Application was published in a newspaper of general circulation in the City; and

WHEREAS, Section 4301.82(F)(1) requires the City to establish requirements that the City determines necessary to ensure public health and safety in the area and Section 4301.82(F)(2) of the Ohio Revised Code provides for notice of this proposed action to be published in a newspaper of general circulation once a week for two (2) consecutive weeks, such notice having been published on May 13, 2020 and May 20, 2020; and

WHEREAS, the public hearing on June 2, 2020 during which public testimony was solicited; and

WHEREAS, the DORA Application as submitted to include the premises of the permit holders located at the street addresses in Section IV of Exhibit "A", meets the requirements of Section 4301.82(B)(1 through 5) of the Ohio Revised Code, it being further clarified that the boundary of the DORA includes the premises of the permit holders located at the street addresses listed in Exhibit "A"; and

**WHEREAS**, approval of the Designated Outdoor Refreshment Area will serve to enhance the experiences of the patrons of the business establishments and special events within Downtown Kent Designated Outdoor Refreshment Area.

**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 approves the DORA Application as having met the requirements of Section 4301.82(B)(1-5) of the Ohio Revised Code, and approves the establishment of a Downtown Kent Designated Outdoor Refreshment Area comprised of the area as depicted on Exhibit "A", attached hereto and made a part hereof, such area to include and encompass the premises of the permit holders located at the street addresses listed in Section IV of Exhibit "A", as is required to be included pursuant to Section 4301.82(F)(1)(a) of the Ohio Revised Code.

**SECTION 2.** Council determines that all public notice requirements of Section 4301.82 of the Ohio Revised Code prior to the passage of this Ordinance have been met.

**SECTION 3.** In order to ensure public health and safety and in accordance with Section 4301.82(F)(1)(b) of the Ohio Revised Code, the number, spacing, and type of signage designating the DORA boundary shall be as set forth on page 5 of Exhibit "A."

SECTION 4. The DORA encompasses not fewer than four (4) qualified permit holders, all of which are identified in Section IV of Exhibit "A," by business name, address, liquor permit type and liquor permit number. Also included in Section I(B) of Exhibit "A" and in accordance with Section 4301.82(F)(1)(c) of the Ohio Revised Code are the hours of operation for the DORA, which will apply to all activities within the DORA, only as may be limited or suspended by approval of special event planning or at the request of City safety forces. Hours of operation shall be Sunday through Saturday from the hours of 12:00 PM to 10:00 PM. The City shall have the right to suspend a qualified permit holder's ability to serve DORA beverages for any violation of the DORA rules.

**SECTION 5.** The Public Health & Safety Plan as described in Section VI of Exhibit "A," is hereby approved as meeting the requirements of Section 4301.82(F)(1)(d) of the Ohio Revised Code, including the manner in which the number of personnel needed to carry out the plan shall be determined.

**SECTION 6.** The Sanitation Plan that will help maintain the appearance and public health of the area as described in Section VI of Exhibit "A," is hereby approved as meeting the requirements of Section 4301.82(F)(1)(e) and 4301.82(F)(1)(f) of the Ohio Revised Code, including the manner in which the number of personnel needed to carry out the plan shall be determined.

SECTION 7. As is required by Section 4301.82(F)(1)(g) of the Ohio Revised Code, beer and intoxicating liquor shall only be served in plastic bottles or other plastic containers, which shall be provided by the qualified permit holders in a readily-identified container that identifies that the DORA approved labeling.

SECTION 8. City Council shall review the requirements of the DORA, as established herein, three months from the effective date of this Ordinance, to determine whether to continue the DORA under the same or modified terms and conditions, or to dissolve it according to statutory provisions.

**SECTION 9.** The Clerk of Council is hereby instructed to forward a copy of this Ordinance to the Ohio Division of Liquor Control and to the investigative unit of the Ohio Department of Public Safety, all in accordance with Sections 4301.82(C) and 4301.82(F)(3) of the Ohio Revised Code.

SECTION 10. 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 11. 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.

Jerry T. Fiala

Mayor and President of Council

## Clerk of Council

RTAGE, AND STATE OF OHIO, AND IN
REQUIRED TO BE KEPT BY THE LAWS
AND EXACT COPY OF ORDINANCE No.
, 20
AMY WILKENS
CLERK OF COUNCIL
(SEAL)

## APPLICATION TO THE CITY OF KENT CITY COUNCIL

- for the establishment of a -

# DOWNTOWN KENT DESIGNATED OUTDOOR REFRESHMENT AREA (DORA)



The Mayor and City Manager respectfully submit the following application to the Kent City Council to approve and enact the Downtown Kent Designated Outdoor Refreshment Area, in accordance with O.R.C. 4301.82.

Mayor Jerry Fiala	
City Manager Dave Ruller	

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#### I. INTRODUCTION AND SUBMITTAL OF APPLICATION

Section 4301.82 of the Ohio Revised Code (ORC) authorizes, effective April 30, 2015 and subsequently amended, municipalities under 35,000 in population to create a Designated Outdoor Refreshment Area or "DORA" up to 150 acres. In order to consider creation of a DORA, the Executive Officer of the City of Kent must file an application with the Kent City Council (City Council), which meets certain statutory requirements. The application filing must be advertised for two consecutive weeks in a newspaper of general circulation. Not earlier than 30 days, but not later than 60 days, after the initial publication of the notice, the City Council may approve or disapprove of the application by ordinance or resolution.

Main Street Kent expressed general support for the concept and indicated by its discussion a desire for this application to be prepared as the next step in considering enactment of a DORA.

In summary, this application would provide the following:

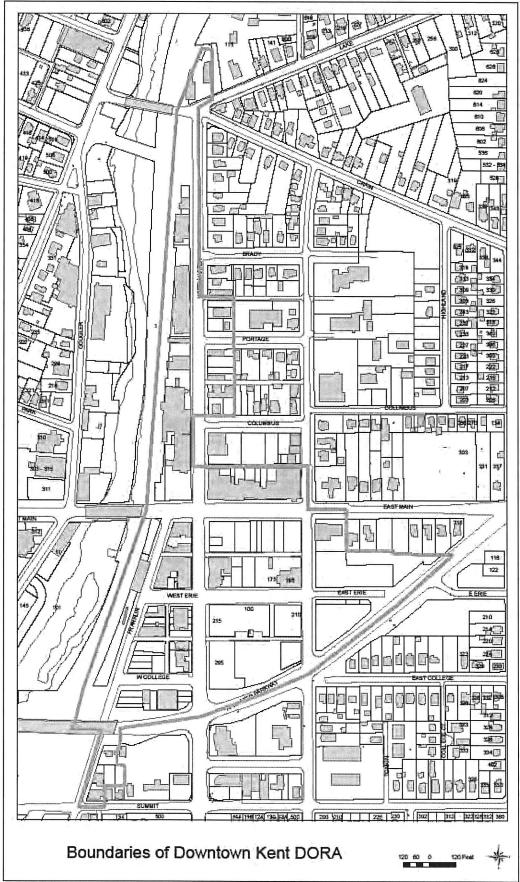
- A. The DORA would ease or make more accessible outdoor dining in front of liquor permit holding establishments. It would allow such establishments to serve alcoholic beverages in a plastic cup pursuant to the law within a designated area during certain hours. Creation of the DORA would relieve these establishments of current requirements for fencing around a dining area. Signage, sanitation and safety requirements would be established by permits issued by the City.
- B. The Kent DORA would provide the ability for individuals to walk within the DORA boundaries with an alcoholic beverage purchased from a liquor permit holding establishment during permitted hours. This authority would be limited, initially, to the hours of 12:00PM to 10:00PM Sunday through Saturday.

#### II. BOUNDARIES

In accordance with O.R.C. 430I.82(B)(1)(b), the boundaries of the DORA are depicted on the following map and described as follows. A list of the street addresses within the DORA are also attached. The City of Kent is a chartered Ohio municipal corporation with a population of 29,962 (2018).

Designated Outdoor Refreshment Area (DORA)

The proposed boundary is outlined in a solid red line and commences at the intersection of N. Water St. at Lake/Crain to S. Water St. at Haymaker Pkwy.; W. Main St. at Franklin Ave. to E. Main St. at DePeyster St. Franklin Ave. from W. Main to Summit St. The area includes all sidewalks within or abutting the boundary lines. The boundary would include all alleys and streets not listed as having establishments located on them. It includes approximately 32.25 acres as calculated by the City Development Engineer, Jennifer Kaye Barone (PE 59709).



## Signage Defining Boundaries of DORA

The City will supply Entrance/Exit signs to the DORA at the six major access points of:

Crain Ave. and N. Water St.
E. Main St. and Depeyster St.
Erie St. and Haymaker Parkway
Depeyster St. and Haymaker Parkway
Franklin Ave. and Summit St.
Franklin Ave. and E. Main St.

# City of Kent Street Boundary Listing

Portage County City of Kent Downtown Kent DORA

Street Name	Range	Even/Odd
Franklin Ave.	123 - 427	Even & Odd
S. Water St.	108 - 265	Even & Odd
N. Water St.	123 - 480	Even & Odd
Crain Ave.	101	Odd
S. Depeyster St	107 - 220	Even & Odd
N. Depeyster St.	121 - 154	Even & Odd
W. College Ave.	108 - 123	Even & Odd
W. Erie St.	163	Odd
E. Erie St.	100 - 201	Even & Odd
E. Main St.	100 - 176	Even & Odd
W. Main St.	106 -112	Even

### **III. NATURE OF ESTABLISHMENTS**

In accordance with O.R.C. 4301.82(B)(2), the nature and types of establishments that will be located within the DORA are listed below.

The types of establishments located within the DORA are in primarily dining, retail, services or office sectors. Examples include:

## Downtown Kent DORA Nature of Establishments

Establishment Name	Address		
Retail			
City Bank Antiques	115 S. Water St.		
Empire	135 E. Main St.		
Handcrafted in Kent	201C E. Erie St.		
Kent Natural Foods Co-Op	151 E. Main St.		
Last Exit Books	124 E. Main St.		
McKay Bricker Framing	141 E. Main St.		
Off the Wagon	152 E. Main St.		
Popped!	175 E. Erie St.		
Rodney Complete Book Shop	144 S. Water St.		
Universitees	100 E. Erie St.		
Dining and	i Beverages		
Bent Tree Coffee Roasters	313 N. Water St.		
Scribbles Coffee Co.	115 N. Water St.		
Tree City Coffee & Pastry	135 E. Erie St.		
D.P. Dough	295 S. Water St.		
Erie Street Kitchen	163 W. Erie St.		
Franklin Square Deli	108 S. Water St.		
Grazers	123 N. Water St.		
Jimmy John's	313 E. Main St.		
Kenko Sushi & Teriyaki	220 S. Depeyster		
Over Easy Morning Café	135 E. Erie St.		
Bricco	210 S. Depeyster St.		
Laziza	195 E. Erie St.		
Ser	vices		
Hometown Bank	142 N. Water St.		
Huntington Bank	101 E. Main St.		
Marathon Financial Services	176 E. Main St.		
Flashers Cleaners	145 E. Main St.		
Jasons' Barber Shop	135 E. Erie St.		
RUSH by Dino Palmieri	215 S. Water St		
Of	fice		
Davey Resource Group World HQ	295 S. Water St. #300		
Smithers-Oasis Co. World HQ	295 S. Water St. #200		
Ametek Dynamic Fluid Solutions	100 E. Erie St. #200		

## IV. QUALIFYING PERMIT HOLDERS

In accordance with O.R.C. 4301.82(B)(3), the DORA will encompass not fewer than four qualified permit holders.

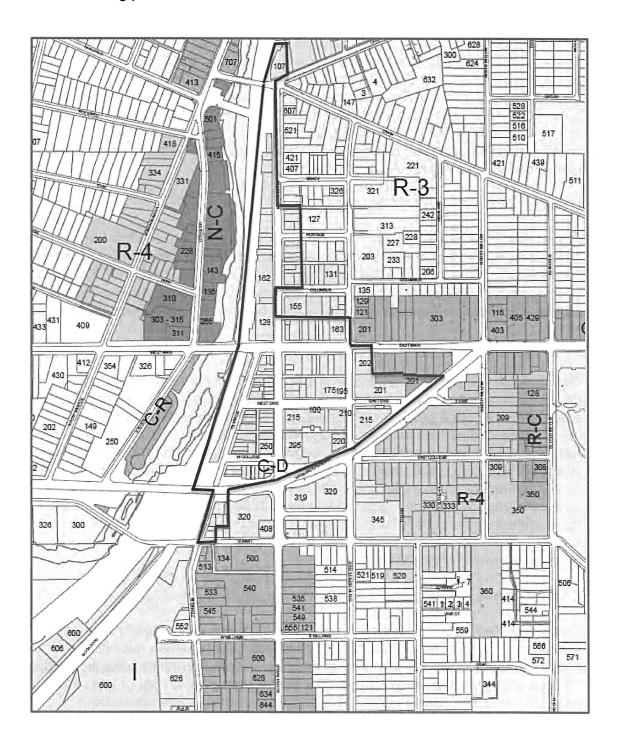
Kent has identified (31) qualified permit holders that will likely be included in the DORA:

Downtown Kent DORA
Qualifying Liquor Permit Holders

	Qualifying Equor Permit noiders				
	Business Name	DBA	Address	Permit Type(s)	Permit #
1	Belleria Pizza Kent LLC	Belleria Pizza	135 E. Erie St.	D1, D2, D3	0600425
2	Laziza Restaurant LTD	Laziza	195 E Erie St.	D51, D6	5072484
3	Tree City Holdings LLC	Tree City Coffee & Pastry	135 E. Erie St. #101	D5	9039058
4	Family Tacos LLC	Fresco Mexican Grill	100 E. Erie St. #112	D5J	2633019
5	Kent Entertainment Group LLC	BarFlyy	100 E. Erie St. #130	D5, D6	4591790
6	Honey Gold Co.	Kent Cheesemonger	155 E. Erie St. #201	D1, D2	3958505
7	175 Main Ltd.	All Folked Up	175 E. Main St	D5	6548375
8	Pacific East Kent	Pacific East	100 - 110 E. Main St.	D1, D2, D3, D3A	6632470
9	Tray Grill LLC	Troy Grill	118 E. Main St.	D1	9071615
10	Twisted Meltz LLC	Twisted Meltz	164 E. Main St. # B & C	D1	9112322
11	Mabam Enterprises Inc.	Buffalo Wild Wings	176 E. Main St. 1st Floor	D2, D2X, D3, D3A, D6	53922700001
12	Kent Underground LLC	Franklin Hotel Bar	176 E. Main St. Bsmt.	D5	4591261
13	Lilybutt LLC	Taco Tontos	123 Franklin Ave.	D1, D2, D3	52166760005
14	Mandalaris Lounge Inc.	Domenicks Restaurant & Lounge	147 Franklin Ave.	D5, D6	5473558
15	KentABC Holdings LLC	Treno Ristorante	152 Franklin Ave.	D5, D6	4591835
16	Venice Café LLC	Venice Café	163 Franklin Ave.	D1, D2, D3, D3A, D6	6771988
17	Pub in Kent Inc.	The Pub in Kent	401 Franklin Ave.	D5, D6	7107910
18	Timberland Enterprises Inc.	Rays Place	134 - 143 Franklin Ave.	D1, D2, D3, D3A, D6	8933973
19	TIK Inc.	Brewhouse Pub & 244 N. Water St.	246 N. Water St.	D1, D3, D3A	893082900003
20	107 South Inc.	Euro Gyro Pub & Pizza	107 S. Depeyster	D5	6548651
21	Bricco Kent LLC	Bricco	210 S. Depeyster	D51, D6	0914287
22	120 South Inc.	Steak-Eez	120 S. Water St.	D1	6547772
23	157 Holdings LLC	157 Lounge	157 S. Water St.	D5	6548710
24	ELDJ LLC	Water St. Tavern	132 - 138 S. Water St.	D5, D6	24704660001
25	Kent Paninis LLC	Kent Paninis	295 S. Water St. #104	D5J, D6	4591461
26	Kent Tacos LLC	Barrio	295 S. Water St. #116	D5J, D6	4581760
27	Kent Canadian Club	Kent Canadian Club	112 W. College Ave.	D4, D6	4590813
28	Zephyr Café Ltd.	Zephyr Café	106 W. Main St.	D1, D2, D3, D3A, D6	99181210005
29	Zephyr Café Ltd.	Bar 3 Third Fl Bar Room	106 W. Main St.	D2, D3, D3A, D6	991812150003
30	Riley Hotel Group	KSU Hotel & Conf. Ctr.	215 S. Depeyster St.	D5A, D6	73798900005
31	Wolf Patterson LLC	The Loft	112 W. Main St.	D1, D2, D3, D3A, D6	9735474

### V. LAND USE & ZONING

In accordance with O.R.C. 4301.82(B)(4), the uses of land within the current and future DORA is zoned C-D (Commercial Downtown) and is in accord with Kent's master zoning plan:



#### VI. PUBLIC HEALTH & SAFETY

In accordance with O.R.C. 4301.82(B)(5), the proposed requirements for the purpose of ensuring public health and safety within the DORA shall include:

## **Ensuring Compliance with Minor Liquor Laws:**

As consumers purchase their first drink on a given day at a qualified permit holder within the DORA, they will be required to provide proof of age for themselves and anyone they are purchasing an alcoholic beverage for. The qualified permit holder will provide wrist bands for each person and ensure they are placed on their wrists prior to leaving their establishment. The wristbands must be worn until leaving the DORA for the day. The presence of the wristbands will assist the Kent Safety Forces in determining that no minors are carrying or consuming alcoholic beverages.

#### **Outdoor Trash and Litter Control:**

City of Kent Central Maintenance staff would augment as needed the commercial trash collection contracted by the city. Additional permanent trash cans would be installed in addition to cardboard bins used to collect the recyclable DORA cups. Staffing levels, trash cans and recyclable bins would be monitored and adjusted as needed. Plastic recyclable containers shall be used for all DORA activities.

## Outdoor Dining in Right of Way:

Qualifying permit holders that desire to sell alcoholic beverages as part of providing an outdoor dining area in the City of Kent's right of way (adjacent to the establishment), must obtain a right of way permit and meet the requirements of the Codified Ordinances for right of way use, and the DORA. These policies will require the qualifying permit holder to submit a sanitation plan, and the physical layout of the tables, chairs and other facilities to among other things comply with ADA requirements. It is anticipated that busing of tables will be required and/or adequate trash cans be in place. Additionally, the permit review will ensure that there are adequate pedestrian passageways and that ingress/egress for emergency services is adequate. Failure to comply with the requirements of the permit can result in revocation.

## Special Events:

The City of Kent requires that each special event using City property receive a permit from the City. As is the City's practice, each event will be reviewed as required in the Codified Ordinances of the City of Kent. Permit requirements may differ between events depending on their size, layout, use of right of way, and program. However, each event will be reviewed to ensure that adequate sanitation, signage and public safety requirements are established. The

necessity for portable bathrooms, handicap accessibility, pedestrian mobility, police, fire and emergency medical ingress and egress, crowd control, DORA boundary management and trash management (dumpsters, cans, pick-up, etc.) will be addressed. Event organizers may be required to pay for special duty officers or overtime for public service or safety workers if necessary, to ensure adequate health, public and safety requirements. If the special event includes the sale of alcoholic beverages, the event organizers can request that the City suspend the DORA for the duration of the special event.

## City of Kent DORA Safety Plan:

The Safety Plan will help maintain public safety within the DORA, and designate the number of personnel needed to execute the Safety Plan. This will be accomplished in the following manner.

Current Public Safety personnel are adequate to maintain public safety within the DORA district. The City of Kent Police Department (KPD) currently has multiple overlapping shifts which will enable it to maintain public safety within the DORA to include the downtown core business district and main street business district. KPD has flexibility when deploying resources and has years of experience dealing with all of the downtown events such as the Heritage Festival, Wizardly World, Art & Wine Festival, Oktoberfest and other individual bar events which draw large crowds throughout the year.

## Staffing for the DORA would consist of:

- 1. Utilizing the current scheduled overlapping shifts of Kent Safety Forces giving them the ability to actively patrol the DORA and have a visible presence in the assigned area.
- 2. During pre-planned or known special events that will increase the activity in the DORA area the KPD will seek organizations involved with the events to help supplement the manning needed to effectively police the DORA area. KPD will seek payment from such organizations for extra duty officer(s) as needed. The officer(s) primary responsibility would be the downtown core business district where the DORA is located.
- 3. All supervisors or OIC's (Officer's in Charge) have the flexibility to call in additional staffing for emergency situations or if large crowds start to get out of control.

Beginning with the commencement of the DORA and continuing for a period of three (3) consecutive months, the City Manager of the City of Kent and the Chief of Police of the City of Kent shall meet monthly to review the Safety Plan herein. The purpose of this meeting will be to determine whether updates, modifications or supplementation may be advisable or required, and in said event, such

changes shall be presented to Council for consideration and implementation. At the end of the three month pilot phase, City Council will have the option to continue or discontinue the DORA.

### Amendments and Possible Revocation:

City staff, business leaders and elected officials would regularly meet to discuss the impacts of the DORA and recommend potential changes to council including hours and days of operation up to and including the possible revocation of the DORA if its negatives are considered to outweigh its benefits or if it is no longer considered to be an economic benefit to the City. City Council will have the final say in enacting any changes to the DORA.

those legal services. The Director of Budget and Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**SECTION 10. Municipal Advisor**. The services of Baker Tilly Municipal Advisors, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Budget and Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

<u>SECTION 11</u>. <u>Financing Costs</u>. The expenditure of the amounts necessary to pay the Financing Costs in connection with the Bonds is authorized and approved, and the Director of Budget and Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available, and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**SECTION 12.** Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of Portage County, Ohio.

SECTION 13. Satisfaction of Conditions for Bond Issuance. This City Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

<u>SECTION 14.</u> Compliance with Open Meeting Requirements. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

<u>SECTION 15.</u> <u>Effective Date.</u> That this ordinance 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 this ordinance is required to be immediately

effective in order to issue and sell the Bonds, which is necessary to enable the City to retire the outstanding notes at their maturity and thereby to preserve the credit of the City, for which reasons and other reasons manifest to this Council this ordinance shall take effect and be in force immediately upon its passage.

PASSED: Um 17, 2020 Date	Jerry T. Fiala
EFFECTIVE: Vine 17, 2000 Date	Mayor and President of Council
ATTEST: Amy Wilkens Clerk of Council	
CIER OF COURCIL	
I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KE WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SOF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FORE, ADOPTED BY THE COUNCIL OF THE CITY OF THE CITY OF THE CITY OF	AID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAW GOING IS A TRUE AND EXACT COPY OF ORDINANCE <i>N</i>
(SEAL)	
	AMY WILKEN CLERK OF COUNC (SEA