

**ORDINANCE 2019-10**

**AN ORDINANCE ESTABLISHING A FRANCHISE FEE OF THREE PERCENT OF GROSS RECEIPTS FROM A FRANCHISEE'S SALE OF ELECTRICITY AND NATURAL GAS INSIDE THE CITY'S CORPORATE LIMITS.**

*Whereas*, Sections 163 and 164 of the Constitution of the Commonwealth of Kentucky and Chapter 96 of the Kentucky Revised Statutes authorize municipal corporations to require public utilities, including providers of electricity and natural gas, within their boundaries to operate under franchise agreements and to grant utilities the right to use public right-of-way on such terms and conditions as are deemed reasonable and necessary; and

*Whereas*, KRS 82.082 authorizes the City to exercise any and all powers within its boundaries that are not in conflict with the Kentucky Constitution or state statutes; and

*Whereas*, by Ordinance Nos. 2019-02 and 2019-03, the City provided for the creation and sale of non-exclusive franchises, for a term of fifteen (15) years, to enter upon, lay, acquire, construct, operate, maintain, install, use, and repair, in the public right-of-way of the City of Fort Mitchell, a system or works for the transmission, distribution, and sale of (1) natural gas and (2) electricity from points either within or without the corporate limits of the City, to the City and the inhabitants thereof, and from and through the City to persons, corporations, and municipalities beyond the limits thereof, and for the sale of same for light, heat, power, and other purposes; and;

*Whereas*, Resolution No. 2018-15 authorized the advertising for bids on said franchises, and Duke Energy Kentucky, Inc. submitted a timely bid to acquire said franchises; and

*Whereas*, by Ordinance Nos. 2019-02 and 2019-03, the City accepted the bids of Duke Energy Kentucky, Inc. to acquire said franchises; and

*Whereas*, pursuant to the authority of Resolution No. 2019-05, the City entered into two Franchise Agreements with Duke Energy Kentucky, Inc. to memorialize the sale by the City to Duke Energy, Inc. of said franchises, subject to the terms and conditions reflected in Ordinance Nos. 2019-02 and 2019-03; and

*Whereas*, pursuant to Ordinance Nos. 2019-02 and 2019-03, which are incorporated by reference in the Franchise Agreements between the City and Duke Energy Kentucky, Inc., for the privilege of utilizing public streets and rights of ways, Duke Energy Kentucky, Inc. is required to pay a quarterly franchise fee of up to five percent (5%) of gross receipts per month from its sale of electricity and gas inside the City's corporate limits.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:**

**RECEIVED**

10/10/2019

PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

SECTION I

The following definitions apply to this Ordinance:

*Company* means the Party or Person that shall become the purchaser of a gas or electric franchise, or any successor assignee of such Party or Person.

*City* means the City of Fort Mitchell

*Gross Receipts* means those amounts of money which the Company receives from its customers within the City's geographical limits or boundaries for the retail sale of electricity under rates, temporary or permanent, authorized by the Public Service Commission and represent amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments. Revenues do not include miscellaneous service charges, including but not limited to turn-ons, meter sets, insufficient funds, late fees and interest, which are related to but are not a part of the actual retail sale of electricity.

SECTION II

For the privilege of utilizing public streets and rights of ways, the Company shall pay the City a quarterly payment of three percent (3%) of gross receipts per month from the franchisee's sale of electricity inside the City's corporate limits, subject to the terms of Ordinance No. 2019-02.

SECTION III

For the privilege of utilizing public streets and rights of ways, the Company shall pay the City a quarterly payment of three percent (3%) of gross receipts per month from the franchisee's sale of gas inside the City's corporate limits, subject to the terms of Ordinance No. 2019-03.

SECTION IV

All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, if any, hereby repealed.

SECTION V

The Provisions of this Ordinance are severable and the invalidity of any provision of this Ordinance shall not affect the validity of any other provisions hereof, and such other provisions shall remain in full force and effect as long as they remain valid in the absence of that provision determined to be invalid.

SECTION VI

Upon its passage, this Ordinance shall be published according to law, and said publication may be in summary form.

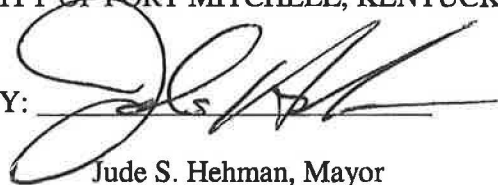


SECTION VII

This Ordinance and shall be in full force and effect when passed, recorded, and published according to law. Said publication may be in summary form.

CITY OF FORT MITCHELL, KENTUCKY

BY:



Jude S. Hehman, Mayor

ATTEST:

Amy K Guenther

Amy Guenther, City Clerk/Treasurer

Date of First Reading: 8/12/2019

Date of Second Reading and Enactment: 8/26/2019

Date Published: 8/29/2019

RECEIVED

10/10/2019

PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

# ENQUIRER MEDIA

PART OF THE USA TODAY NETWORK

**Advertiser:**

CITY OF FORT MITCHELL  
2355 DIXIE HWY

FORT MITCHELL KY 41017

## AFFIDAVIT OF PUBLICATION

**Newspaper:** CIN-EN Kentucky Enquirer

**LEGAL NOTICE  
ATTACHED**

**State of Wisconsin**

**RE: Order # 0003760563**

Account #: CIN-618331  
Total Cost of the Ad: \$46.32  
# of Affidavits: 1  
Last Run Date: 08/29/2019

I, J. Heynen

of the The Enquirer, a newspaper printed in Cincinnati, Ohio and published in Cincinnati, in said County and State, and of general circulation in said county, and as to the Kentucky Enquirer published in Ft. Mitchell, Kenton County, Kentucky, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper times, once in each issue as follows:

08/29/19

[Signature]

Subscribed and sworn to before me this 29th day of August, 2019

[Signature]  
Notary Public

9/19/21

Commission expires



CITY OF FORT  
MITCHELL, KENTUCKY

The City of Fort Mitchell, Kentucky has enacted Ordinance 2019-10, establishing a franchise fee of 3.0% of gross receipts from a franchisee's sale of electricity and natural gas inside the City's corporate limits. The full text of the ordinance can be viewed on the City of Fort Mitchell's website at <https://fortmitchell.com>.  
KY, Aug 29, 19#3760563

