AN ORDINANCE of the City of Kent, Washington, relating to and providing for an environmental excise tax or dedication in lieu of tax upon the construction of new dwelling units and new commercial and industrial buildings, to generate revenue to help alleviate environmental and other impacts of increased population and development; creating a special fund known as the "Environmental Excise Fund"; providing for deposits and expenditures from such fund and defining administrative procedures.

WHEREAS, it is the policy of the people of the State of Washington to encourage productive and enjoyable harmony between man and his environment, and to promote efforts which will prevent or eliminate damage to the environment and to stimulate the health and welfare of all the people, and

WHEREAS, it has been determined that the development and construction of new residential living units and of new commercial or industrial structures within the City threatens to contaminate and pollute the air, water and land within and surrounding the City, and

WHEREAS, such development threatens to burden and overtax existing public facilities, utilities and services of the City, and

WHEREAS, such development threatens to decrease the amount of land available for parks and open space while at the same time creating an increased user demand for parks and open spaces for both active and passive recreational opportunities for the citizens of the City and for such other persons who may use such facilities, and

WHEREAS, the City has developed comprehensive plans for the expansion and betterment of its sewer and water utilities, and is currently involved in a comprehensive study of the financial impacts of such expansions and betterments, the preliminary findings of which show relatively short range funding requirements in the millions of dollars, and
WHEREAS, the City has adopted a comprehensive six year street program, has studied the effects of development in an area of the City known as the "Valley Floor" and has begun a city wide study of the transportation and circulation needs of the City over the next several years, all of which have shown or can be expected to show financial burdens on the City which may not be entirely met by traditional methods of financing, and

WHEREAS, the City has previously adopted a comprehensive park plan, and has determined that if that plan is to be viable that as much as fifty million ($50,000,000) may be needed over the next twenty years for the acquisition and development of properties to simply keep pace with the City's current standard for parks and open spaces as delineated in the Comprehensive Park Plan, and

WHEREAS, to a large extent the generally accepted methods of financing expansion and betterments of the City's sewer and water utilities, such as rate increases, revenue bond issues and local improvement district financing may not be practicable to maintain current parks and open space standards and to finance necessary improvements to the transportation network and other facilities of the City, and

WHEREAS, it is possible if not probable that outside funding sources such as federal revenue sharing and state and federal grant programs may be seriously curtailed in the near future, if not altogether eliminated, and

WHEREAS, experience indicates that general revenues granted by development are at best sufficient only to offset the cost of providing basic municipal services, and are not adequate to offset the costs of major capital expenditures required as a result of new development, and

WHEREAS, it has been determined that the imposition and collection of a special, non-recurring tax upon the construction of new residential dwelling units and new commercial and industrial buildings within the City is a practical and equitable way of providing revenue with which the City may at least in part meet and deal with and solve the serious ecological environmental
problems created or compounded by the construction of such facilities within the City, and

WHEREAS, it has been determined that there may be situations in which it would be to the benefit of the City and an owner of land that land be dedicated to the City for some specified municipal purpose in lieu of payment of any tax contemplated by this ordinance and that provisions for such dedications should be made, and

WHEREAS, it has been determined that the number of bedrooms in a dwelling unit and the gross area of commercial and industrial buildings tend to bear a reasonable relationship to the impact that the occupation of said units and buildings have on the environment and quality of life in the City as well as a reasonable relationship to the need for new and expanded facilities, parks and open space, and

WHEREAS, the rate of tax set forth in Section 3 of this ordinance has been determined to be fair and equitable and reasonably related to the purposes for which it is imposed, NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Definitions. For the purpose of this article, the words defined in this section shall have the meaning assigned to them.

Dwelling Unit. "Dwelling Unit" means and includes any dwelling designed for human occupancy, which has one or more rooms, with or without a kitchen or cooking facilities, except a "hotel" and "motel" which will be considered commercial building.

Bedroom. "Bedroom" means and includes any room in a dwelling unit, which is determined by the Director of Public Works or his/her designee, to be intended, designed or constructed so as to be suitable for use as a room to accommodate the sleeping needs of a resident or guest of a dwelling unit.

Section 2. Imposition. An environmental excise tax or dedication in lieu of tax is hereby imposed upon the construction of each new dwelling unit and each new or any addition to
commercial and industrial buildings within the City.

Section 3. Rates. The rate of the Environmental Excise Tax hereby imposed is:

New Residential Building.

a) Single Family. $300.00 per bedroom to a maximum of $750.00 per dwelling unit including condominiums.

b) Multi-Family. $500.00 per bedroom to a maximum of $1,000.00 per dwelling unit.

New Industrial and Commercial Building.

a) $0.22 per square foot of gross building area.

The rates as specified above shall be annually reviewed by the City Council and, where deemed necessary, adjusted accordingly.

Section 4. Determination of Payment of Tax. The amount of tax due hereunder shall be determined by the building official or his or her designee at the time of application for building permit and full amount of the tax shall be paid to the City prior to the issuance of a building permit unless payment has been deferred in accordance with the provisions of Section 5 of this ordinance.

Section 5. Deferred Payment. The City Council may, at any time prior to the issuance of a building permit, determine that the tax imposed by this ordinance be made in one or more annual installments, not to exceed five such installments.

Any request for deferred payment must be made to the City Council in writing, specifying the reasons therefore. The Council may grant any such request upon showing that to do so would not constitute a grant of special privileges, that a financial hardship would result from the failure to grant the request, and that granting the request would not materially frustrate the intent and purposes of this ordinance.

Any such grant of deferral shall be evidenced by a written instrument signed by the appropriate parties promising to pay the amount deferred together with interest on the unpaid balance, which interest shall begin to run on the first day of the month following acceptance of the written promise by the City Council with interest to be three points above the Federal discount rate unless that rate is greater than that which the City
may legally charge in which case the rate shall be the maximum which the City may legally charge. The promissory instrument shall also contain, as a minimum, a provision for payment of reasonable attorneys' fees in the event the City is required to commence legal action in the event of a default, and also a provision that the venue for any such action may, at the City's option, be King County, Washington.

Section 6. Fee or Dedication of Land Thereof. The procedure for determining whether an applicant for building permit is to pay a fee, dedicate land, or both, shall be as follows:

1. At the time of filing a permit application, the applicant shall, as part of such filing, indicate whether he or she desires to pay the required fee or dedicate property for parks or recreation, open space or other municipal purpose covered by this ordinance in lieu thereof. If a dedication of land for this purpose is proposed, the designated area shall be shown on the plat map or site plans as submitted and, at the request of the City, shall be field staked.

2. The City Administrator or his/her designee shall review all applications in which a dedication of land is proposed to determine whether the City should require payment of a fee or accept the proposed dedication in lieu thereof, or a combination of both. Said determination shall be based on the following:

a) Determination. Whether the City accepts a proposed land dedication shall be determined by the following standards which shall be applied so as to produce dedications of land which will provide space within assigned municipal function not just left over land perhaps too steep or difficult for public use.

1) The applicable goals and policies contained in the Park and Recreation System Plan, Open Space Plan Element of the City's Comprehensive Plan, and other plans subsequently adopted by the City Council.

2) Land which is not free and clear of encumb-
rances which materially detract from its usefulness for park and recreation or other municipal purposes shall not be accepted for dedication.

3) Dedicated land shall have an area of at least two (2) acres unless, (a) by reason of location or natural features a smaller parcel has a special amenity which justifies its preservation or development for park and recreational purposes; or (b) there exists a reasonable feasibility of incorporating dedicated land with other, adjacent land in order to form a larger and more useful tract; (c) there is a potential for municipal use other than parks and open space.

Said decision shall be transmitted to the authority reviewing the particular application and shall be final except to the extent that the application is subject to review or appeal to the City Council, or Hearing Examiner in accordance with the applicable procedures established by the City for processing of preliminary plats, short plats and building permits.

Section 7. Disposition of Proceeds: Creation of Environmental Excise Fund. All proceeds from the tax collected under this article shall be paid into a special fund of the City to provide open space, improve the quality of life and the ecology of the City, or of any distressed or environmentally endangered portion thereof, and to fight pollution and contamination of the air, water and land within and surrounding the City, to be entitled the "Environmental Excise Tax Fund" which fund is hereby created. Said fund shall be used for the purpose of purchasing land, cultural and passive properties, constructing buildings and improvements, and purchasing machinery, equipment, and other capital type facilities with which the City may develop, improve, and expand open space, public parks and leisure areas, and municipal facilities. In expending said fund for said purposes, the City Council may act alone or may exercise its powers jointly with any public
entity to accomplish any of the foregoing purposes for the benefit of the whole, or any portion of the City of Kent.

Section 8. Five years from the adoption of this Ordinance, said ordinance shall terminate unless the Council determines to continue said ordinance for a determined period of time.

Section 9. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ATTEST:

[Signature]
ISABEL HOGAN, MAYOR

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

[Signature]
DONALD E. MIRK, CITY ATTORNEY

PASSED the 15 day of December, 1980.
APPROVED the 16 day of December, 1980.
PUBLISHED the 19 day of December, 1980.

I hereby certify that this is a true copy of Ordinance No. 2264, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature] (SEAL)