

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1031 Amending Chapter XI, Article 1, Section 11-101 Of The Code Of The City Of Edgerton, Kansas, Concerning The Uniform Public Offense Code

Department: Administration

Background/Description of Item: Annually, the League of Kansas Municipalities prepares and publishes the code known as the Uniform Public Offense Code (UPOC) for Kansas Cities. This ordinance will adopt the Uniform Public Offense Code Edition 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are omitted, deleted, modified, or changed Section 11-102 of the existing Code of the City of Edgerton.

Please find enclosed with this agenda item an article prepared by the League of Kansas Municipalities regarding the changes in the UPOC.

Enclosure: Draft Ordinance No. 1031
 August 2016 Article in Kansas Government Journal regarding Changes to 2016 UPOC

Related Ordinance(s) or Statute(s): Edgerton City Code Chapter XI

Recommendation: Approve Ordinance No. 1031 Amending Chapter XI, Article 1, Section 11-101 Of The Code Of The City Of Edgerton, Kansas, Concerning The Uniform Public Offense Code

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: September 2, 2016

ORDINANCE NO. 1031

AN ORDINANCE AMENDING CHAPTER XI, ARTICLE 1, SECTION 11-101 OF THE CODE OF THE CITY OF EDGERTON, KANSAS, CONCERNING THE UNIFORM PUBLIC OFFENSE CODE

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1: That Chapter XI, Article 1, Section 11-101 of the Code of the City of Edgerton is hereby amended to read as follows:

11-101.UNIFORM CODE INCORPORATED. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Edgerton, Kansas, that certain code known as the "Uniform Public Offense Code," Edition 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are omitted, deleted, modified, or changed by Section 11-102 of the existing Code of the City of Edgerton. No fewer than one copy of said Uniform Public Offense Code "Official Copy as Adopted by Ordinance No. 1031" with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Sheriff's Department of Johnson County, Kansas, the municipal judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied, at the cost to the city, such number of official copies of such Uniform Public Offense Code similarly marked, as may be deemed expedient.

SECTION 2: Repeal. Former Chapter XI, Article 1, Section 11-101 of the Edgerton Municipal Code is hereby repealed.

SECTION 3: Effective Date. This Ordinance shall be effective after its passage, approval and publication once in the City's official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF EDGERTON, KANSAS ON THE 2nd DAY OF SEPTEMBER, 2016.

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

Legal Forum

by Amanda Stanley

2016 Standard Traffic Ordinance and Uniform Public Offense Code Changes

The 2016 editions of the *Standard Traffic Ordinance* (STO) and the *Uniform Public Offense Code* (UPOC) are now available for cities to order. (See the order form in this month's KGJ or find it online at www.lkm.org) This article describes the legislative changes to both publications and some changes made by the editor.

STO

The major changes to the STO this year are a result of *State v. Ryce*, 303 Kan. 899, 368 P.3d 342, 345 (2016) in which the Kansas Supreme Court found K.S.A. 2015 Supp. 8-1025 to be unconstitutional. K.S.A. 2015 Supp. 8-1025 criminalizes the refusal to submit to, or complete, a test or tests deemed consented to under K.S.A. 2015 Supp. 8-1001 to determine the presence of alcohol or drugs. The court held that regardless of implied consent laws, an individual has an expectation of privacy in his or her bodily substances and thus breath, blood and urine tests remain a search under the Fourth Amendment. As a general rule, warrantless searches are per se unreasonable. One exception to the general rule is when an individual gives his or her free and voluntary consent. Under the Fourth and Fourteenth Amendments, an individual's consent may not be coerced. When an individual faces criminal charges if he or she withdraws his or her consent to a search, the individual's consent is no longer freely and voluntarily given. While the court found the State does have compelling interests it seeks to protect through K.S.A. 2015 Supp. 8-1025, the statute is not narrowly tailored to serve the State's interests and thus is facially unconstitutional. In response to the holding in *Ryce*, the STO has been amended as follows to remove the following unconstitutional sections.

- Section 30(h)(2)(A) has been removed (Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties)
- Section 30.1(m)(2)(B) has been removed (Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties)
- Section 30.2(c)(2) has been removed (Preliminary Breath Test)
- Section 30.2.1. has been removed in its entirety (Refusal to Submit to Alcohol or Drug Testing)

Finally, Section 175.1 (Compression Release Engine Braking System) has been amended to include the definition of compression release engine braking system within the section.

UPOC

In the UPOC definitions section 1.1 the following changes have been made:

- Under the Smoking Definition, the definition for a Medical Facility has been amended to remove "and any psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto" due to the fact that K.S.A. 75-3307b was repealed by S.B. 449.
- The definition for Juvenile Correctional Facility Officer or Employee has been removed.


In section 3.2(b)(2), (Battery Against a Law Enforcement Officer), the definition of Attorney has been amended to include City Attorney, Assistant City Attorney, City Prosecutor, and Assistant City Prosecutor. These positions are not listed in K.S.A. 21-5413 however, the editor found them to be appropriate under the general intent of the statute.

The passage of four bills- HB 2501, SB 133, HB 2462, and HB 2436- have resulted in the need to amend the UPOC this year.

- HB 2501 amends section 3.12(c) (Breach of Privacy) to include the following parties as exempt from prosecution for violations of an individual's privacy: a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person; a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; and a local exchange carrier or telecommunications carrier as defined in K.S. A. 66-1,187, and amendments thereto.
- SB 133 amends section 5.8 (Purchase, Consumption or Possession of Alcoholic Liquor or Cereal Malt Beverage by a Minor) to provide immunity from prosecution for one or two persons under 21 if they are providing support to another person needing emergency medical services and law enforcement assistance. Immunity is provided if the one or two persons requests medical assistance on another person's behalf if they reasonably believe that person is in need of assistance and they are cooperative with emergency medical services personnel and law enforcement officers in providing that medical assistance.
- HB 2462 amends section 6.1 (Theft) by amending the definition of felony theft of property or services from a value of \$1,000 to a value of \$1,500. It is important to note that there are other crimes for which \$1,000 remains the value at which the crime becomes a felony. HB 2462 only amended the definition for theft and made no changes to other crimes.
- HB 2436 amends section 10.14 (Operation of a Motorboat or Sailboat) by excluding any person operating a sailboat that does not have a motor and has an overall length of 16 feet, seven inches or less, while such person is enrolled in an instructor-led class from the requirements in 10.14.

All members who purchase a publication may request a red-line copy of the 2016 editions of the STO and/or UPOC, by sending an e-mail to Anna DeBusk at adebusk@lkm.org.

As always, it is important for city officials and staff to review every section that has changed in the STO and UPOC. Please feel free to contact me or another League attorney with any questions. We are happy to help.

 Amanda Stanley is Legal Counsel for the League of Kansas Municipalities. She may be contacted at (785) 354-9565 or astanley@lkm.org.

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1032 Amending Chapter XIV Of The Edgerton, Kansas Municipal Code To Incorporate The 2016 Standard Traffic Ordinance, Subject To Existing Local Traffic Provisions In The City Code Which Supplement And/Or Modify Certain Sections Thereof

Department: Administration

Background/Description of Item: Annually, the League of Kansas Municipalities prepares and publishes the code known as the Standard Traffic Ordinance (STO) for Kansas Cities. This ordinance will adopt the Standard Traffic Ordinance for Kansas Cities Edition 2016 except such articles, sections, parts or portions as are omitted, deleted, modified, or changed by Sections 14-102 through 14-105 of the Code of the City of Edgerton. Please find enclosed with this agenda item an article prepared by the League of Kansas Municipalities regarding the changes in the STO.

Enclosure: Draft Ordinance No. 1032
 August 2016 Article in Kansas Government Journal regarding Changes to 2016 STO

Related Ordinance(s) or Statute(s): Edgerton City Code Chapter XIV

Recommendation: Approve Ordinance No. 1032 Amending Chapter XIV Of The Edgerton, Kansas Municipal Code To Incorporate The 2016 Standard Traffic Ordinance, Subject To Existing Local Traffic Provisions In The City Code Which Supplement And/Or Modify Certain Sections Thereof

Funding Source: N/A

Prepared by: Beth Linn, City Administrator
Date: September 2, 2016

ORDINANCE NO. 1032

AN ORDINANCE AMENDING CHAPTER XIV OF THE EDGERTON, KANSAS MUNICIPAL CODE TO INCORPORATE THE 2016 STANDARD TRAFFIC ORDINANCE, SUBJECT TO EXISTING LOCAL TRAFFIC PROVISIONS IN THE CITY CODE WHICH SUPPLEMENT AND/OR MODIFY CERTAIN SECTIONS THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1: Article 1 of Chapter XIV of the Edgerton, Kansas Municipal Code is hereby amended to state the following:

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101.UNIFORM CODE INCORPORATED. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Edgerton, Kansas, that certain code known as the "Standard Traffic Ordinance for Kansas Cities" Edition 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are omitted, deleted, modified, or changed by Sections 14-102 through 14-105 of the existing Code of the City of Edgerton. No fewer than one copy of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1032" with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Sheriff's Department of Johnson County, Kansas, the municipal judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied, at the cost to the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. (Ord. 1000, 2015; Ord. 978, 2014; Ord. 941, 2013; Ord. 928, 2012; Ord. 907, 2011; Ord. 896, 2010; Ord. 860, 2009; Ord. 840, 2008; Ord. 830, 2007; Ord. 817, 2006; Ord. 782, 2005; Ord. 768, 2004; Ord. 750, 2003; Ord. 744, 2002; Ord. 729, 2001; Ord. 715, 2000; Ord. 707, 1999; Ord. 697, 1998; Ord. 688, 1997; Ord. 684, 1997; Ord. 675, 1996; Ord. 666, 1995; Ord. 650, 1994; Ord. 634, 1993; Ord. 625, 1992; Ord. 617, 1991; Ord. 604, 1990; Ord. 593, 1989; Ord. 649, 1994; Ord. 578, 1988; Ord. 742, 1987, Ord. 559, 1986)

14-102.PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10 nor more than \$500, except for speeding which shall not be less than \$30 nor more than \$500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500, but said fine for subsequent convictions for the same offense may be increased in accordance with Section 201 of the Standard Traffic Ordinance. (Ord. 1032, 2016, Ord. 896, 2010; Ord. 865, 2009) (Former Title – Amendment (Driving While License Canceled, Suspended or Revoked; Penalty) repealed: (Ord. 545, 1985)

(Former Title 14-106 – Failure to Comply with Traffic Citation, Ord. 545, 1985)

SECTION 2: Article 2 of Chapter XIV of the Edgerton, Kansas Municipal Code is hereby preserved and any modifications or supplements to the Standard Traffic Ordinance stated therein are now applicable to the “Standard Traffic Ordinance for Kansas Cities” Edition 2016.

SECTION 3: Repeal. Former Article 1 of Chapter XIV of the Edgerton Municipal Code is hereby repealed.

SECTION 4: Effective Date. This Ordinance shall be effective after its passage, approval and publication once in the City’s official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF EDGERTON, KANSAS ON THE 2nd DAY OF SEPTEMBER, 2016.

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

Legal Forum

by Amanda Stanley

2016 Standard Traffic Ordinance and Uniform Public Offense Code Changes

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 Amanda Stanley is Legal Counsel for the League of Kansas Municipalities. She may be contacted at (785) 354-9565 or astanley@lkm.org.

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1033 Authorizing and Providing For The Issuance Of General Obligation Bonds, Series 2016-B, Of The City Of Edgerton, Kansas; Providing For The Levy And Collection Of An Annual Tax For The Purpose Of Paying The Principal Of And Interest On Said Bonds As They Become Due; Authorizing Certain Other Documents And Actions In Connection Therewith; And Making Certain Covenants With Respect Thereto

Department: Administration

Background/Description of Item:

Staff recommends the City Council authorize the issuance of the City's \$245,000 General Obligation Bonds, Series 2016-B (the "2016-B Bonds"). The Series 2016-B Bonds are being issued subsequent to the City's previously issued General Obligation Bonds, Series 2016 (the "Series 2016 Bonds"), to remedy a shortfall in Series 2016 Bond proceeds necessary to fund sewerage system improvements and related expenses.

Due to a problem with the required publications necessary to issue the Series 2016-B Bonds on the timeline originally planned, Ordinance No. 1033 and Resolution No. 09-08-16A repeal and supercede the prior Ordinance and Resolution related to this bond issue approved on August 25, 2016. The changes from the prior actions are necessary to meet the requirements of Kansas statutes, and delay the closing date from September 8 to September 15.

To effect this recommendation, the governing body is asked to take two actions:

- 1) Approve Ordinance No. 1033 authorizing the sale of the bonds; and
- 2) Approve Resolution No. 09-08-16A specifying the terms and conditions of the bonds.
[FOLLOWING AGENDA ITEM]

Representatives of bond counsel (Gilmore & Bell) will be in attendance at the September 8 meeting to address any questions.

Enclosures: Draft Ordinance No. 1033

Related Ordinance(s) or Statute(s): The project to be financed by the bonds is authorized under Charter Ordinance No. 22.

Recommendation: Approve Ordinance No. 1033 Authorizing and Providing For The Issuance Of General Obligation Bonds, Series 2016-B, Of The City Of Edgerton, Kansas; Providing For The Levy And Collection Of An Annual Tax For The Purpose Of Paying The Principal Of And Interest On Said Bonds As They Become Due; Authorizing Certain Other Documents And Actions In Connection Therewith; And Making Certain Covenants With Respect Thereto

Funding Source: Unlimited general obligation (property tax) pledge of repayment, but intended to be repaid from fees charged to the City's sewer customers.

Prepared by: Beth Linn, City Administrator

Date: September 6, 2016

ORDINANCE NO. 1033

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2016-B, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Edgerton, Kansas (the “City” or “Issuer”) is a city of the third class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City desires to undertake certain other improvements to its sewer system, including but not limited to decommissioning the existing Edgerton Wastewater Treatment Plant, establishing a new pump station at the location of the Edgerton Wastewater Treatment Plant, and constructing a new lift station and force main to connect the new pump station at the location of the Edgerton Wastewater Treatment Plant to the new Big Bull Creek Wastewater Treatment Facility (the “Improvements”); and

WHEREAS, the City proposes to issue its general obligation bonds to permanently finance the Improvements; and

WHEREAS, the City previously issued and has outstanding the Series 2012A Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation bonds of the City for the purpose of refunding a portion of the February 1, 2017 interest due on the Bonds on that date in the amount of \$1,000.00 (the “Refunded Interest”); and

WHEREAS, in order to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Interest, which cost is allocable to the Bonds defined herein; and

WHEREAS, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 22 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

“Bond Resolution” means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City’s General Obligation Bonds, Series 2016-B, dated September 15, 2016, authorized by this Ordinance.

“City” means the City of Edgerton, Kansas.

“Clerk” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk.

“Mayor” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“Refunded Interest” means a portion of the interest due on the Series 2012A Bonds scheduled to be paid on February 1, 2017, as described in the recitals hereof.

“Series 2012A Bonds” means the Issuer’s General Obligation Bonds, Series 2012A, dated September 27, 2012.

“State” means the State of Kansas.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2016-B, of the City in the principal amount of \$245,000, for the purpose of providing funds to: (a) pay the costs of the Improvements; (b) pay a portion of the interest on the Bonds; (c) refund the Refunded Interest; and (d) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the governing body of the City.

Section 5. Levy and Collection of Annual Tax. The governing body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of, redemption premium, if any, and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Repeal. Ordinance No. 1029 of the City passed by the governing body on August 25, 2016, is hereby repealed. This Ordinance shall supersede Ordinance No. 1029.

Section 9. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City, approval by the Mayor and publication of the Ordinance or a summary thereof in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED by the governing body of the City on September 8, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, Clerk

APPROVED AS TO FORM:

Bond Counsel