

Article 1
Authority, Adoption
& Application of Regulations

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1.1 Title and Authority

- A. Title.** This ordinance shall be known and cited as the Edgerton Unified Development Code, hereinafter cited as the UDC.

- B. Authority.** This ordinance is adopted under authority of KSA 12-715b, KSA 12-741, et. Seq. to KSA 12-771.

1.2 Purpose and Goals

- A. Purpose.** This ordinance is adopted to designate, regulate, and restrict the location of buildings, structures, and the use of land for residence, trade, industry, agriculture or other purposes; regulate and limit the height, number of stories, and size of buildings and other structures hereafter erected or altered; establish minimum requirements for off-street parking, loading, and unloading; regulate and determine the size of yards, landscaping, and other open spaces; regulate the density of population and buildings; and said purposes, divide the City into zoning districts such as number, shape and area as may be deemed best suited to carry out these regulations and provide for their administration, enforcement, and amendment.

- B. Goals.** These regulations are created for the purpose of encouraging the most appropriate use of land and to insure the logical and compatible growth of the various districts within the City.

1.3 Relationship to the Comprehensive Plan

- A.** The Edgerton Unified Development Code is intended to implement the planning goals and policies contained in the Comprehensive Plan 2000-2020 and other planning documents and policies of the Planning Commission.

- B.** It is hereby acknowledged that the Edgerton Comprehensive Plan 2000-2020 and amendments thereto, are the controlling instruments for changes, amendments, and revisions of this Unified Development Code.

1.4 Jurisdiction and Application of These Regulations

Jurisdiction and Application. These regulations shall apply to all land and use of the land within the City limits of Edgerton, Kansas. The provisions of these regulations may be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, and welfare. They are not intended to abrogate or annul any building permit, certificate of occupancy, variance, or other lawful permit issued before the full force and effective date of these regulations. Any use or occupation of land previously approved as a permitted use shall be permitted to continue as a lawful use or occupation. These regulations shall not extend the life or scope of any non-conforming use.

1.5 Rules for Interpretation

- A. Overlapping Regulations.** Where the conditions imposed by any provision of this ordinance (UDC) on the use of land, buildings, or structures are more restrictive than comparable conditions imposed by any other laws, ordinances, resolutions, rules or regulations of any kind, the restrictions of this ordinance shall govern.
- B. Private Agreements.** The provisions of this ordinance (UDC) are not intended to annul or otherwise interfere with any easement, covenant or private legal agreement, except that when the regulations of this ordinance are more restrictive, or impose higher standards than private agreements, the regulations of this ordinance shall govern.
- C. Unlawful Uses.** No building, structure, or use of the land not lawfully existing at the time of the adoption of this ordinance shall become or be made lawful solely by reason of the adoption of this ordinance.
- D. Prohibited Uses.** All uses and activities not provided for or addressed by the terms of this ordinance shall be considered to be prohibited uses and activities, unless the Zoning Administrator shall find that the use or activity is consistent and compatible with the provisions of this ordinance.
- E. Severability.** Should any section, provision, or particular application of this ordinance be adjudged invalid by a court of competent jurisdiction, it is the intent of this ordinance that such judgment shall not affect the validity of the remainder of this ordinance, and such shall remain in full force and effect.
- F. Word Usage.** Words used in the plural in this ordinance are intended to include the singular and words used in the singular shall include the plural, unless clearly indicated otherwise.
- G. Persons.** The word person includes the words: persons, association, agent, corporation, partnership, and company.

1.6 Restrictions

- A. Jurisdiction.** It shall be the responsibility of the Zoning Enforcement Officer [the Zoning Administrator] to interpret and administrate the rules and regulations contained herein.

B. Application of Regulations.

1. **Conformance.** No lot, tract, or parcel shall be used or occupied, or building, structure, sign erected, constructed, remodeled, substantially repaired, or moved except in conformity with all the regulations of this ordinance unless a variance or conditional use is granted.
2. **Exemptions.** The following structures and uses are exempt from the provisions of this ordinance.
 - a) Structures or uses of the land having an agricultural purpose.
 - b) Railroad tracks, signals, bridges and similar facilities located on a railroad right-of-way.
 - c) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution of electricity, gas or water, or the collection of sewage or storm water operated or maintained by a public utility.
3. **Subdivision Plats.** Land shall not be split, divided, or combined into lots or tracts, auctioned or sold as lots, or conveyed for development purposes except as provided by this ordinance. It shall be unlawful for any person to sell or otherwise convey land for the purpose of laying out any subdivisions, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, or to offer for development purposes without reference to a valid, recorded plat or approved certificate of survey. All sales or transfers of land shall be considered for development purposes unless:
 - a) The split, division, or transfer of land is for a valid agricultural purpose.
 - b) The land is owned or held in trust for the United States Government, the State of Kansas, Edgerton City, or a public school district.
 - c) The lot, tract, or parcel has been previously subdivided and is proposed to be split into no more than two lots or tracts.
4. **Bulk and Yard.** All structures built, moved or remodeled or land uses shall meet the bulk and yard requirements of this UDC.
 - a) **Exemption for Existing Lots of Record.** A building permit shall be issued to an applicant who is owner of a legally created "lot of record" (established prior to the effective date of the ordinance). The setback and yard requirements as reflected on the recorded plat shall be used to establish minimum requirements, regardless of bulk and yard requirements, setbacks or other physical requirements set forth in this ordinance. If setbacks were not included in an amended or original plat the lot front line dimension shall be a minimum of 40', the side yards a minimum of 8', and the rear yard a minimum of 10'. Alternatively, the Board of Zoning Appeals may authorize the Zoning Administrator to establish reasonable setbacks and yards based on an average of existing yards and frontages in the immediate neighborhood.
 - b) **Setback Measurement.** A front yard setback shall mean the distance between the edge of the R.O.W. to the base of a structure, and does not include any part of the structure that projects outward from above this line. The side and rear yard setbacks shall mean the distance from the lot line to the base of the structure, and do not include any part of the structure that projects outward above this line. The exception to this rule is when a property line runs to the

center of the R.O.W. In such cases, the Zoning Administrator shall use an equitable method to determine the building setback based on “averaging” methods according to the conditions of the neighborhood.

5. **Building Height.** The maximum height shall mean the distance from the lowest part of the base of a structure to the tallest point of the roof, and does not include any accessories projecting upward from the roof.
6. **Multiple Buildings on Single Lots.** In no case shall there be more than one main use, building or structure on one lot, except when a single lot is used or zoned for multi-family, commercial, or industrial purposes. In such cases, all buildings shall collectively comply with all front, side and rear yard requirements for the zoning district where the lot is located.
7. **Unlawful Acts.** It shall be unlawful to erect, move, increase the building footprint, or readapt any structure or building without a valid permit.
8. **Exemption.** Any building, including a bona fide farm residence, used for a valid agricultural purpose is exempt from the building permit and City fees, but all such buildings and structures shall comply with current Edgerton and Johnson County floodplain development regulations and sanitation requirements.

1.7 Enforcement and Penalties

- A. A violation of any regulation adopted in this ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense, or by fine and imprisonment. Each day’s violation shall constitute a separate offense. In addition, the City may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat or refusal to obey and adhere to a lawful order of the Zoning Administrator.
- B. Any person, the value or use of whose land is or may be affected by such violation, shall have the authority to maintain suits or actions in a court of competent jurisdiction within the appeals period proscribed by law.
- C. Whenever any building or structure is erected, constructed, moved, altered, or converted or maintained, or any building, structure or land is purposed to be used in violation of any floodplain regulation contained herein, the city/and or the Attorney General and the Chief Engineer of the Kansas Division of Water Resources of the State Board of Agriculture, in addition to other remedies, may institute injunction, or other appropriate action to prevent such violations.
- D. Any person or agent who is given a Stop Work Order shall be required to pay a late charge in accord with the following schedule:

New or Relocated Principal Buildings		Additions to Structures or Accessory Buildings
First Offense	\$150	\$75
Second Offense	\$200	\$75
Third Offense	\$300	\$200
Thereafter	\$400	\$400

Additional Late Charges For All Structures:

1. An additional \$200.00 fee shall be added to the initial charge if a valid permit is not obtained within 7 working days after the Zoning Administrator issues a Stop Work Order. A stay of this action shall be granted to the violator if a proper appeal is filed with the Board of Zoning Appeals or court of competent jurisdiction prior to the 7th workday period.
- E.** The Zoning Administrator and/or the designated deputy, upon finding a violation of these regulations (or if a proposed action would constitute a violation), shall have the power to:
1. **Issue a Notice of Violation** that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy. A reasonable time, not less than 30 days, shall be set to correct the violation, or to file an appeal.
 2. **Issue a Stop Work Order** that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
 3. **Municipal Court Action.** The Zoning Administrator or designated deputy may issue a Citation and Notice to Appear before the Municipal Court. The citation shall set forth the named person, the offense, and the time to appear in municipal court.
- F.** Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
- G.** Whenever any provision of this ordinance is violated, the Zoning Administrator shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
- H.** The Zoning Administrator shall have the following remedies without limitations:
1. **No Action.** Following any complaint, and after careful consideration, the Zoning Administrator may issue a "No Conflict" opinion.
 2. **Informal Contact.** The Zoning Administrator shall have the authority to abate the zoning violation through informal meetings or conversations.
 3. **Agreement to Abate.** The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning Commission.
 4. **Notice and Order.** See above Section 1.7 (E).
 5. **Permits.** The Zoning Administrator may refuse to issue any required permits on tracts, parcels, or lots cited for active violations of this ordinance.

1.8 Reserved for Future Amendments

1.9 Zoning of Annexed Lands

All lands hereafter annexed to the City of Edgerton shall carry the county zoning designation upon annexation into the city for 60 days following the effective date of annexation. Any

owner of land within the area annexed may apply for rezoning any time following the effective date of annexation. During the 60 days following the effective date of annexation, the Planning Commission shall prepare, or cause to be prepared a zoning map of the annexed area, conduct the necessary public hearing, and submit the same to the Governing Body for adoption. Upon adoption of the zoning map, all zoning requirements and regulations of the City shall take effect, and the regulations of the prior zoning jurisdiction shall terminate as affects the annexed area.

1.10 Vesting

- A. Residential Development Rights.** The right to construct all residential units shall vest at the time the final plat is recorded and the first valid permit is issued. If construction is not commenced within five (5) years of the date a final plat is recorded, such rights shall expire and require reapproval of the plat.
- B. Non-Residential Development Rights.** Development rights for all purposes other than residential use shall vest upon the issuance of all valid permits required by the City, and, construction has commenced beyond the foundation or slab installations, and work amounting to \$2,500 for materials is completed.
- C. Building Permit.** A building permit shall be valid for a period of one year from the date of issuance, and shall expire at the beginning of the first working day after one full year of issuance unless the building's structural frame is constructed and enclosed and the roof is completed. An extension for a period of time not to exceed one hundred and twenty (120) days may be granted by the Zoning Administrator for hardships and practical difficulties.

1.11 Prohibited Uses.

- A. No temporary or incomplete building, nor any automotive equipment, trailer, garage or appurtenances incident to a family dwelling, shall be erected, maintained or used for residential purposes, Providing that where the exterior and more than fifty (50) percent of the interior of a permanent residence has been completed, this regulation shall not apply.
- B. In the event of fire or natural disaster or other circumstances that renders a residence uninhabitable, the Zoning Administrator is authorized to grant permission for temporary housing on the premises including mobile home, motor home, and camper for a period not to exceed ninety (90) days. Written permission must be granted. The Edgerton City Council can grant any additional ninety (90) day permits.
- C. No temporary or outwardly incomplete building or structure, no open excavation for a building or foundation, and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained, or remain in such condition for more than six (6) months, except by permission of the Edgerton City Council.
- D. All building material, construction equipment, machinery or refuse must be stored in a garage or other enclosed building, other than in such district as permitted in this ordinance, except actual construction, and reconstruction operations, upon said premises or related premises, provided the City Council may waive said requirements in unusual cases for a limited time.

1.12 Effective Date.

The provisions of this ordinance shall become effective from and after the date of their approval and adoption by the Governing Body and publication of the adopting ordinance. All zoning actions taken under prior regulations are hereby affirmed with zoning district classifications assigned as indicated on the official zoning map adopted with these regulations.