

**EDGERTON CITY COUNCIL  
MEETING AGENDA  
CITY HALL, 404 EAST NELSON STREET  
June 24, 2021  
7:00 P.M.**

**Call to Order**

1. **Roll Call** \_\_\_\_ Roberts \_\_\_\_ Longanecker \_\_\_\_ Conus \_\_\_\_ Lewis \_\_\_\_ Brown \_\_\_\_ Beem
2. **Welcome**
3. **Pledge of Allegiance**

**Consent Agenda** *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes from June 10, 2021 Regular City Council Meeting

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**Regular Agenda**

5. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

6. **Recognition of Katee Smith, former City Council Member**

*RECESS FOR RECEPTION TO RECONGIZE KATEE SMITH FOR SERVICE  
AND DEDICATION TO THE CITY OF EDGERTON*

**Business Requiring Action**

7. **CONSIDER APPROVAL OF U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS AND THE ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

8. **CONSIDER LEASE AGREEMENT WITH JOHNSON DRIVE DUPLEX I, LLC, FOR CITY OFFICES LOCATED AT 312B E. NELSON STREET IN EDGERTON, KS**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

9. **CONSIDER ORDINANCE NO. 2082 AMENDING CHAPTER VIII, ARTICLE 2, SECTION 8-207 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**10. CONSIDER ORDINANCE NO. 2083 AMENDING CHAPTER VIII, ARTICLE 4, SECTION 8-409 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**11. Report by the City Administrator**

- Monthly Report on 502 E 2<sup>nd</sup> Street
- Presentations by Representatives for 2022 Budget Requests
  - Miami County Conservation District

**12. Report by the Mayor**

**13. Future Meeting Reminders:**

- July 8<sup>th</sup>: City Council Meeting – 7:00PM
- July 13<sup>th</sup>: Planning Commission Meeting – 7:00PM
- July 15<sup>th</sup>: 2022 Budget Work Session – 7:00PM
- July 22<sup>nd</sup>: City Council Meeting – 7:00PM

**14. Adjourn** Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**EVENTS**

July 3<sup>rd</sup>: Edgerton's Community Picnic and Fireworks

July 24<sup>th</sup>: Summer Movie Night

August 7<sup>th</sup>: Summer Movie Night

**City of Edgerton, Kansas**  
**Minutes of City Council Regular Session**  
**June 10, 2021**

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on June 10, 2021. The meeting convened at 7:00 PM with Mayor Roberts presiding.

**1. ROLL CALL**

Ron Conus	present
Clay Longanecker	present
Josh Lewis	present
Josh Beem	present
Jody Brown	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- City Attorney Lee Hendricks
- City Clerk Alexandria Clower
- Development Services Director Katy Crow
- Finance Director Karen Kindle
- Accountant Justin Vermillion
- CIP Manager Brian Stanley
- Public Works Superintendent Trey Whitaker
- Marketing and Communications Manager Kara Banks

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**Consent Agenda**

**4. Approve Minutes from May 27, 2021 Regular City Council Meeting**

Councilmember Longanecker moved to approve the Consent Agenda, seconded by Councilmember Beem. The Consent Agenda was approved, 5-0.

**Regular Agenda**

**5. Declaration.** There were no declarations made by any of the councilmembers.

**6. Introduction.** Mr. Bowne, The New President of Johnson County Community College

Mr. Andy Bowne addressed the council. He stated as the new Johnson County Community College President he wanted to take a moment to introduce himself and update the governing body on the Community College. He stated he began at the college July 1<sup>st</sup>, 2021 after the

retirement of the previous president. He thanked the Governing Body and the taxpayers for the support to the community college.

He stated the college serves about 40,000-plus students on average in a semester and last year, the college served between 80,000-85,000 students. He stated about 21,000 of those are high school students taking college grade classes for credit that will transfer to any accredited school. He stated each year about 10,000 graduates transfer to a four-year school. He stated about 35,000-40,000 thousand take advantage of the continuing education classes JCCC has to offer, and about 15,000 or so will earn certification to enhance their careers.

He stated from an academic perspective, about 20 percent of classes are being offered face-to-face, and with COVID guidelines changing, the school is hoping to see more people in person this fall. He stated the summer classes this year look typical for a summer at JCCC, most students tend to enroll in online classes. He stated when fall classes begin, the numbers will jump to around 50,000 in face-to-face classes at the campus.

He stated JCCC offers classes at a rate of \$94 per credit hour for those that are county residents and \$112 for those out of county, making JCCC one of the lowest cost options in the state. He concluded by saying this past year has been a challenging year for all and he appreciates the support to the community college.

Mayor Roberts stated specifically for Edgerton, JCCC offers the Learning and Career Center at the Logistics Park. He stated the LCC has highest numbers in CDL training and helps other companies with customized training. He stated the community college has been a tremendous partner for Edgerton.

Councilmember Conus stated he appreciates the opportunities JCCC offers to the community. He stated his grandson just finished at JCCC and will now attend KU. He stated he as well attended JCCC in 1976.

### **Business Requiring Action**

#### **7. CONSIDER RESOLUTION NO. 06-10-21A ADOPTING THE KANSAS HOMELAND SECURITY REGION L HAZARD MITIGATION PLAN**

Mr. Trey Whitaker, Public Works Director addressed the council. He stated this plan allows us to protect residents, the community and city property in the event there would be a disaster.

Mr. Whitaker referred to the packet, which states mitigation plans are a prerequisite for grants. To meet all requirements of FEMA, plan participants must show their continued commitment to the county's mitigation efforts by adopting the plan through a formal resolution.

Councilmember Longanecker asked if this is the same as what the Council has approved in the past.

Mr. Whitaker confirmed this was a continuation of what had previously been approved by Council. He stated FEMA approved the new plan and the City along with other jurisdictions worked through this emergency management process.

Mayor Roberts stated FEMA mandates that City adopt this plan to apply for FEMA money.

Councilmember Brown asked if this is the same as the training that council members completed a couple of years ago.

Mayor Roberts stated that the training Mr. Brown is questioning is NIMS training. He stated everyone in the organization had to be trained and certified in certain categories with NIMS in the case there would ever be a disaster event in Edgerton. He stated it is a great thing to have, but from an elected official standpoint, there is not much for the Governing Body to do other than stay out of the way and help where needed, if needed. He stated if a disaster is big enough, the County would take precedence.

Councilmember Lewis moved to approve Resolution No. 06-10-21A, seconded by Councilmember Longanecker. The Resolution was approved, 5-0.

#### **8. CONSIDER ORDINANCE NO. 2081 ANNEXING CERTAIN LAND INTO THE CITY OF EDGERTON, KANSAS**

Ms. Katy Crow, Development Services Director, addressed the council. She stated the City has received two consents for annexation applications for properties currently located in Johnson County, Kansas. She stated copies of those applications are included in the Agenda Packet.

Ms. Crow stated Kansas Statute 12-520 states that the governing body of any city, by ordinance, may annex land to such city if that land adjoins the city and a written petition for consent to annex is filed with the city. She stated the property owners have filed the required petition for consent for annexation and the properties are contiguous to property within the City of Edgerton corporate city limits.

Councilmember Longanecker moved to approve Ordinance No. 2081, seconded by Councilmember Conus. The Ordinance was approved, 5-0.

#### **9. Report by the City Administrator**

- Project Update on 207<sup>th</sup> Street Grade Separation

Ms. Linn stated the intersection in its current state has a high amount of traffic and it is expected to be higher when complete. She stated the piers are nearly complete and, depending on the weather, should be finished this week or next. She stated the road closures are minimal for the next few weeks and the long-term closures are not scheduled until the final connection to the roadways. She stated the city sent letters to the residents in that area informing them to use the website, social media and NotifyJoCo for updates. She stated the gas company had to lower the pipeline under the road, causing a bump on 207<sup>th</sup> Street. She stated this repair to the roadway is signed appropriately and drivers in the area should use caution. She stated the contractor inspects this surface regularly and regrades as

needed. During the final tie in, the bump will be smoothed out and the road finished with a flat paved surface. She stated there may be times when the contractor is working to the east of the railroad tracks, so it may not appear that much is getting done. She offered a reminder that this area is still an active construction site. She stated the City appreciates the public's continued patience.

Ms. Linn stated the weather seems to have switched from extremely wet and muddy to dry, dusty, and hot. She stated the crews continue to work with the contractor to keep the road clean and dust under control. She stated there has been some chatter about the design and would like the community to know that the city went through an extensive public process to ask the community their thoughts and opinions. She stated the majority of those that attended public meetings and open houses gave input was that the roadway should go off alignment on the North. She stated this option was presented to Council and the Governing Body made that decision.

Councilmember Longanecker asked why there was a bump.

Ms. Linn stated the pipeline needed enough cover, but they did not want to do too much work on a temporary patch. She stated because of the cloverleaf, the road will connect there and when it connects the roadway will be fixed and have an even grade. In the meantime, crews will continue to monitor the road.

Councilmember Lewis stated he sees some kind of truck sweeping the road to keep dust and dirt from going toward houses almost daily.

- Report on Summer Kick-Off Block Party

Ms. Linn stated the overall attendance for the Summer Kick-Off Block Party was about 200 people and about 30 people attended the movie night that followed. She stated the event had face painting, crazy hair, photo booth, a live DJ and more. She stated Central Bank of the Midwest had their mascot, a duck named "Dollar Bill" in attendance. She stated this event received some great sponsorships, including NorthPoint Development, Arrowhead, Hostess, Central Bank of the Midwest, New City Church and the United Methodist Church.

Mayor Roberts stated Rev. Jim Hopwood with the Methodist Church is retiring again and this time he says it will be final. He asked council to congratulate him if they see him. He stated Rev. Hopwood has done a lot for the community over the years and he is very appreciated.

Councilmember Beem stated his kids loved the event and were happy to get out of the house. He stated the city did a great job.

Mayor Roberts stated everyone seemed to really enjoy the event.

Ms. Linn stated in the coming weeks, the city will have other events such as Frontier Days, which is hosted by the Frontier Days Committee in downtown Edgerton. She stated after that, the community picnic and fireworks show will be held July 3<sup>rd</sup> at Martin Creek Park. She stated July 24<sup>th</sup>, there will be a movie night at Glendell Acres Park with hopes of having a public engagement piece for the park renovation and then on August 7<sup>th</sup> there will be a movie night in the greenspace with the hopes of an additional event.

- Discussion Regarding Parking in Downtown

Ms. Linn stated the city was approached by a downtown business owner with concern about downtown parking. She stated the city has had a lot of events lately, well attended meetings, larger court docket, etc. She stated this increase effects parking in and around downtown Edgerton. She stated from a zoning and economic development standpoint, the city wants new businesses downtown, but the city does not want these businesses to be impacted from lack of parking. She stated this raises the question of how the city allocates spots for businesses and office space, and still maintains public parking.

Ms. Linn suggested having two spaces on Nelson Street signed for 1 hour parking. She stated having an hour will allow those that need it, ample time to get their hair done, shop, etc. but will also discourage those that are here for court to park there.

Councilmember Longanecker asked who would be keeping track of time.

Ms. Linn stated she would assume businesses downtown would help keep an eye and do a good job of notifying staff if they need to do so. She stated this is not something that police would necessarily enforce.

Mayor Roberts stated he has heard from a current business owner that there are times her shop must close because there is nowhere for her customers to park.

Council members agreed this would be a good start to resolve the issue.

Ms. Linn stated she anticipates this will require a resolution that will be brought back to council and added to consent for approval.

Mayor Roberts stated he recommends drilling holes and placing permanent signs.

- Update on Building Inspector Hiring Process

Ms. Linn handed out an updated job description for the Building Inspector position. She stated the City currently has a contract with George Butler Associates (GBA) to handle all of the inspections, review, etc. for the city. She stated when COVID began, staff had to have a conversation about this position and ultimately decided to pause recruitment. She stated previously the job description listed minimum and preferred qualifications with a minimum qualification being certified through ICC. She stated it is now suggested this become a preferred qualification rather than a necessity. This way the city can interview candidates that maybe have the years of experience and but not necessarily the ICC certification. She stated the job description will have an emphasis on reviewing of plans, inspections, and paperwork.

Mayor Roberts stated he thinks it is good to change this because there are a lot of people who work 40 plus years in the field and may have all their other licenses but are not ICC certified. He stated he is an advocate for education and believes it is important, but he would rather see someone who is qualified from years of experience in the position work to get properly certified than to see someone held back because they do not have the certification that is not necessarily needed, more so preferred.

Councilmember Lewis stated from a small business side, he knows it will be easier to have someone dedicated on staff to help people walk through the process and answer questions as well as be on site if someone comes into City Hall and just needs a quick question answered.

Ms. Linn stated GBA will still be kept on as an on-call service.

All Council members agreed to move forward with recruitment of the Building Inspector position.

- Update on Senate Bill 13

Jeff White with Columbia Capital addressed the Council. He stated in 1998 cities operated under a mill levy limit. In 2002, the State removed the Local Ad Valorem Tax Reduction (LAVTR) payments as well as the City-County Revenue Sharing payments. In return, the state lifted mill levy limits, giving city councils full control. In 2007, legislation followed that eliminated the property tax on machinery and equipment. To compensate for the lost revenue to local governments, the Legislature promised to resume the LAVTR and City-County Revenue Sharing payments in 2008, which lasted only a couple of years and have never been reinstated. The State legislative policy remained constant from 2008 to 2015 until the tax lid legislation was passed in 2015, with an update in 2016. There were not any changes to the tax lid legislation in the last 5 years. There were bills introduced last year, but nothing was successful. This year's legislature finally passed Senate Bill 13 and was amended by House Bill 2104 to fix a few dates. He stated under the new legislation the biggest change is the Revenue Neutral Rate (RNR), which is effective with the property tax levy in 2021 for the 2022 budget. He stated in a community that is growing, the same mill levy rate in 2021 will likely produce more property tax revenue than in 2020.

Mr. White stated by June 15<sup>th</sup> each year the County Clerk must provide cities with the RNR. If a city desires to exceed the RNR, the city will have to hold a public hearing and pass a resolution. The city will have to notify the County Clerk by July 20<sup>th</sup> of the desire to hold a public hearing and include the mill levy rate to be considered and the date/time/location of the public hearing. The County Clerk will then notify all the taxpayers of public hearings. The law applies to any entity that levies ad valorem property taxes, except for the State of Kansas. The public hearing must be held between August 20<sup>th</sup> and September 20<sup>th</sup>. Budgets must be approved and submitted to the County Clerk by October 1<sup>st</sup>. The RNR public hearing is in addition to the normal budget public hearing and must also be published in the newspaper ten days in advance of the hearing date. The RNR hearing and the budget public hearing can be held on the same date.

There are no provisions in SB 13 for adjustments to the RNR for new construction, properties rolling off incentives, addition of new territory, growth in assessed value due to inflation, or changes in debt service requirements. The tax lid law cities previously operated under allowed adjustments for those categories as well as increases in certain expenditures (i.e., public safety). Mr. White noted that the City Council should consider adopting a policy to adjust the RNR for these categories.

Councilmember Lewis asked if the County sets the revenue neutral rate.



Mr. White stated the county calculates the RNR. He stated the property tax revenue to be raised is based off last year's total raised. He stated the calculation is last year's property tax revenue divided by this year's assessed valuation, multiplied by 1,000 to express the RNR in mills. He stated that, for example, if in 2021 a city levied 4 mills, to generate that same revenue amount in 2022, if the community's assessed value grows, the mill levy rate will go down.

Councilmember Lewis asked if the city could opt in and out of the RNR.

Mr. White stated it is an annual choice. He stated the city must hold a public hearing and during this process, the city may still be in budget deliberations. He stated the city could first give an option to exceed and then through budget deliberations decide how much is needed and reduce the rate before budget approval. Once the budget is approved the rate is set and cannot be changed.

Ms. Linn stated this item was brought before Council for direction from council so staff can begin to create the budget.

Mayor Roberts stated this is a monumental change compared to how property taxes have been handled in the past. He stated he would assume that a lot of jurisdictions will be holding public hearings to exceed the RNR.

Councilmember Lewis stated he thinks this is counterproductive to growth in the community.

Ms. Linn stated the notice of assessed valuation will come from the county. Between then and the Budget Work Session on July 15<sup>th</sup>, staff would like direction from council to prepare the budget to capture property tax revenue for the following categories of changes in assessed valuations: property rolling off incentives, annexation, non-residential property, residential property due to inflation based on the CPI-U, General Obligation debt issuance and errors made by the county. Ms. Linn stated the council is not adopting a resolution at this council meeting, but rather giving direction to staff as to how they should prepare the budget.

Councilmember Conus asked if the city receives one Ad Valorem payment from the county.

Ms. Karen Kindle, Finance Director, stated the city receives two large payments a year and a few other small ones throughout.

Councilmember Conus asked if the city will be able to grab those payments individually.

Ms. Kindle stated the assessed valuation is broken out separately on a report and if there is any increase in the assessed valuation for non-residential, the city can request an additional report to calculate and back track what those numbers are. This will allow us to calculate the adjustments to the revenue neutral rate.

Ms. Linn stated this is done at budget time.

Councilmember Lewis asked how this is advantageous to the city or any growing community. He stated that he has not heard anything that has been beneficial for the city.

Mayor Roberts stated the advantage is truth in taxation and the mandatory public hearings telling the public this is what the city is doing and why they are doing it. He stated in growing areas like Johnson County, there will be a lot of jurisdictions following suit with the RNR public hearings.

Mr. Lee Hendricks, City Attorney, stated he believes there will be a lot of jurisdictions holding RNR hearings just in case there are valuation errors by the county. He stated there are too many unknowns. The city can always have a hearing and come back with a solution to finalize after.

Councilmember Lewis stated it seems like the Legislature is trying to make things simple on their end and more complicated and less effective for the cities.

Mayor Roberts stated the State cares about sales tax and income tax, not about property tax because it is less than 1 percent for them. He stated based on the current law now, it will negatively affect Edgerton. He stated in 2024 when the City of Edgerton begins to see the Ad Valorem taxes for the first warehouses built, the city will not see any additional income if the RNR rate is not exceeded. He stated the residents of Edgerton pay about \$330,000 in property taxes and in the first year the abatements begin to roll off, the first warehouse buildings will pay a nearly equal amount. He stated if the City stays at the revenue neutral rate, the City will not see an increase in property tax revenue going forward.

Councilmember Lewis questioned why the city would continue to do the work and have these new warehouses, or other developments coming to town if the city does not benefit from the work being done.

Councilmember Conus stated he is in favor of this new bill. He stated he likes that it focuses on the dollar amount and not the mill rate, bringing more transparency for the taxpayers.

All councilmembers agreed to have staff move forward with preparation of the budget to include capturing property tax revenue for the listed items, including property rolling off incentives, annexations, growth in assessed value for non-residential property, growth in assessed value of residential property due to inflation based on the CPI-U, issuance of General Obligation debt and errors made by Johnson County.

## **10. Report by the Mayor**

Mayor Roberts stated he had sent the Board of County Commissioners a letter. He stated Commissioner O'Hara made some comments about Edgerton that were not factual and misconstrued contract language. He stated he sent pages of the contract document so they could understand and have all the facts. He stated Ms. O'Hara has reached out a couple times and he expects to have a meeting with her. He stated although she is not Edgerton's district commissioner, he believes she should still have all the facts.

**11. Future Meeting Reminders:**

- June 24<sup>th</sup>: City Council Meeting – 7:00PM
- July 8<sup>th</sup>: City Council Meeting – 7:00PM
- July 13<sup>th</sup>: Planning Commission Meeting – 7:00PM
- July 15<sup>th</sup>: 2022 Budget Work Session – 7:00PM
- July 22<sup>nd</sup>: City Council Meeting – 7:00PM

**12. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(12) FOR MATTERS RELATED TO SECURITY MEASURES TO INCLUDE CITY ATTORNEY, CITY ADMINISTRATOR AND COMMUNITY POLICING OFFICER FOR THE PURPOSES OF DISCUSSING SECURITY MEASURES THAT PROTECT PUBLIC AND PRIVATE PROPERTY**

Councilmember Longanecker moved to recess into executive session pursuant to K.S.A 75-4319(B)(12) to include the City Attorney, City Administrator and Community Policing Officer for the purposes of discussing security measures that protect public and private property for 5 minutes.

Councilmember Lewis seconded the motion. The meeting recessed into executive session at 8:25 PM, 5-0.

Councilmember Longanecker moved to return to open session with no action being taken. Councilmember Lewis seconded the motion. Open session resumed at 8:30 PM, 5-0.

**13. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(2) FOR CONSULTATION WITH AN ATTORNEY DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR FOR THE PURPOSES OF CONTRACT NEGOTIATIONS**

Councilmember Longanecker moved to recess into executive session pursuant to K.S.A 75-4319(B)(2) to include the City Attorney and the City Administrator for the purposes of contract negotiations for 5 minutes.

Councilmember Lewis seconded the motion. The meeting recessed into executive session at 8:32 PM, 5-0.

Councilmember Lewis moved to return to open session with no action being taken. Councilmember Beem seconded the motion. Open session resumed at 8:37 PM, 5-0.

**14. Adjourn**

Councilmember Lewis moved to adjourn, seconded by Councilmember Conus. All in favor. The meeting adjourned at 8:37 PM.

Submitted by Alexandria Clower, City Clerk

## EVENTS

June 18-19<sup>th</sup>: Frontier Days

July 3<sup>rd</sup>: Edgerton's Community Picnic and Fireworks

July 24<sup>th</sup>: Summer Movie Night

August 7<sup>th</sup>: Summer Movie Night

DRAFT

## City Council Action Item

---

**Council Meeting Date:** June 24, 2021

**Department:** Administration

### **Agenda Item: Consider Approval of U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions and the Assurances of Compliance with Title VI of the Civil Rights Act of 1964**

#### **Background/Description of Item:**

On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA). ARPA provides grant funds for state and local governments. The grant funds are sent directly to units of government with populations greater than 50,000. For units of government with less than 50,000 population, called Non-entitlement Units (NEUs), the funds will be sent to the state, who will then distribute the funds to the NEUs. The distribution amount is determined by population. Half of the amount is to be received prior to July 31, 2021 and the other half will be received 12 months later. City matching funds are not required.

The City of Edgerton's allocation is \$270,644.58. The Treasury Department has issued final guidance and staff is attending webinars from the Kansas Recovery Office to learn about the eligible uses for the funds and other administrative requirements. Staff will bring further information and recommendations regarding the City's allocation to the CIP discussions later this fall. The attached document shows the four categories of eligible uses.

In order to receive the funds, the City Council must approve two agreements and submit the signed copies to the State of Kansas as soon as possible.

- U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions
  - Contains information about the federal regulations to which the funds are subject, including any guidance released by the Department of the Treasury.
- Assurances of Compliance with the Title VI of the Civil Rights Act of 1964
  - The City agrees to comply with the antidiscrimination regulations contained in this act in carrying out programs funded with federal assistance.

The City Attorney has reviewed and approved these agreements.

**Related Ordinance(s) or Statue(s):** n/a

---

**Funding Source:** n/a

**Budget Allocated:** n/a

**Finance Director Approval:**  x  
Karen Kindle, Finance Director

**Recommendation: Approve the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms & Conditions and Approve the Assurances of Compliance with Title VI of the Civil Rights Act of 1964.**

**Enclosed:**

1. Potential Allowable Uses of NEU Funds
2. U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms & Conditions
3. Assurances of Compliance with Title VI of the Civil Rights Act of 1964

**Prepared by:** Karen Kindle, Finance Director

## Potential allowable uses of NEU funds

### Allowable Uses

- 1 Respond to the **public health emergency** with respect to COVID-19 or its negative **economic impacts**, including assistance to:
  - Households, small businesses, and nonprofits
  - Aid to impacted industries (e.g. tourism, travel, hospitality)
- 2 **Provide premium pay**<sup>1</sup> for public employees that are performing essential work, or by providing grants to eligible employers that have eligible workers who perform essential work
- 3 **Provide government services** to the extent of reduction in revenue due to COVID-19 relative to revenues collected in most recent full fiscal year
- 4 Make **necessary investments** in water, sewer, or broadband infrastructure

### Potential expenditures

- Direct financial relief payments to residents
- Direct financial relief payments to local businesses
- Investment in public health equipment (e.g. hand sanitizer, PPE), etc.)
- Premium pay for employees
- Revenue loss
- Water tanks
- Sewer infrastructure
- Broadband equipment

1. Up to \$13 per hour—premium amount may not exceed \$25,000 with respect to any single eligible worker

U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: [Recipient to provide] City of Edgerton, Kansas PO Box 255 404 E. Nelson St. Edgerton, KS 66021	DUNS Number: 783874530 Taxpayer Identification Number: 48-0734242 Assistance Listing Number: 21.027
--	---

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient:

---

Authorized Representative:

Title: Mayor

Date signed:

U.S. Department of the Treasury:

---

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.



U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS LOCAL FISCAL RECOVERY FUND  
AWARD TERMS AND CONDITIONS

1. Use of Funds.
  - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
  - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
  - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
  - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
  - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for contract or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

## **ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS**

### **ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

\_\_\_\_\_  
City of Edgerton, Kansas

Recipient

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Official

#### PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

## City Council Action Item

---

**Council Meeting Date:** June 24, 2021

**Department:** Facilities

**Agenda Item: Consider Lease Agreement with Johnson Drive Duplex I, LLC, for City Offices Located at 312B E. Nelson Street in Edgerton, KS**

**Background/Description of Item:**

On June 14, 2018, City Council approved a three-year lease for offices at 312B E. Nelson to provide space for staff that could not be accommodated at other City facilities. There are now four staff members housed at this location as well as a conference room.

Staff has negotiated a lease renewal with Johnson Drive Duplex I, LLC, for a lease term of July 23, 2021 – July 22, 2026. The lease rate starts at \$1,038 per month and increases 3% each year of the lease period.


The agreement is in the process of being reviewed by the City Attorney.

**Related Ordinance(s) or Statue(s):** n/a

---

**Funding Source:** General Fund - Facilities

**Budget Allocated:** \$13,000

x 

**Finance Director Approval:** Karen Kindle, Finance Director

---

**Recommendation: Approve the Lease Agreement with Johnson Drive Duplex I, LLC, for City Offices Located at 312B E. Nelson Street in Edgerton, KS, Subject to Approval by the City Attorney.**

**Enclosed:** Lease Agreement with Johnson Drive Duplex I, LLC

**Prepared by:** Karen Kindle, Finance Director



## ***COMMERCIAL LEASE***

This Lease Agreement (this "Lease") is dated as of June 21st, 2021, by and between Johnson Drive Duplex I, LLC ("Landlord"), and City of Edgerton ("Tenant"). The parties agree as follows:

**PREMISES.** Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant Second Floor of 312 East Nelson Street property. (the "Premises") located at 312 East Nelson Street Suite B, Edgerton, KS 66021.

**TERM.** The lease term will begin on July 23rd, 2021 and will terminate on July 22nd, 2026.

**LEASE PAYMENTS.** Tenant shall pay to Landlord monthly installments of \$1,038, payable in advance on the first day of each month. Lease payments shall be made to the Landlord at 13816 Pembroke Lane, Leawood, KS 66224 or made via ACH. The payment address may be changed from time to time by the Landlord. Rent increase annually based on the chart below and increases July 23rd each following year.

First 12 Months of Lease	\$1,038
Second 12 Months of Lease	\$1,069
Third 12 Months of Lease	\$1,101
Fourth 12 Months of Lease	\$1,134
Fifth 12 Months of Lease	\$1,168

**SECURITY DEPOSIT.** Security Deposit of \$950 is still being held from first lease beginning 7/23/2018. No security deposit is required.

**POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

**USE OF PREMISES.** Tenant may use the Premises only for Business and storage purposes. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence.

**EXCLUSIVITY.** Landlord shall not directly or indirectly, through any employee, agent, or otherwise, lease any space within the property (except the Premises herein described), or permit the use or occupancy of any such space whose primary business activity is in, or may result in, competition with the Tenants primary business activity. The Landlord hereby gives the Tenant the exclusive right to conduct their primary business activity on the property.

**PROPERTY INSURANCE.** Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

**UTILITIES AND SERVICES.** Tenant shall be responsible for all utilities and services incurred in connection with the Premises.

**TAXES.** Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Landlord shall pay all real estate taxes and assessments for the Premises.

PERSONAL TAXES. Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

**CASH BASIS COMPLIANCE.** So as to prevent future city councils from being bound to the financial decisions of prior councils, Tenant and Landlord agree that Tenant may lawfully terminate this lease at any time following ninety (90) days' written notice to Landlord in the manner provided for in the Notice provision below.

**DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

**LATE PAYMENTS.** For each payment that is not paid within 5 days after its due date, Tenant shall pay a late fee of \$5.00 per day, beginning with the day after the due date.

**CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

**NON-SUFFICIENT FUNDS.** Tenant shall be charged \$30.00 for each check that is returned to Landlord for lack of sufficient funds.

**ACCESS BY LANDLORD TO PREMISES.** Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

**INDEMNITY REGARDING USE OF PREMISES.** To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

**DANGEROUS MATERIALS.** Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

**COMPLIANCE WITH REGULATIONS.** Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

**MECHANICS LIENS.** Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.

**DISPUTE RESOLUTION.** The parties will attempt to resolve any dispute arising out of or relating to this Agreement through friendly negotiations amongst the parties. If the matter is not

resolved by negotiation, the parties will resolve the dispute using the below Alternative Dispute Resolution (ADR) procedure.

Any controversies or disputes arising out of or relating to this Agreement will be submitted to mediation in accordance with any statutory rules of mediation. If mediation is not successful in resolving the entire dispute or is unavailable, any outstanding issues will be submitted to final and binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction.

**ASSIGNABILITY/SUBLETTING.** Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

**RIGHT OF FIRST REFUSAL.** The parties recognize the possibility that the space rented by Landlord location below the Premises \*the first floor of 312 East Nelson Street) may, during the life of this lease and any extensions, become available for rent. By signing this agreement Landlord hereby grants Tenant a right of first refusal, throughout the length of this Commercial Lease and any extensions, to occupy and rent the first floor of the Premises. In the event the property should become unoccupied the Landlord shall provide notice to Tenant of the upcoming availability of the first-floor location, and Tenant shall have thirty (30) days to inform Landlord of its intent to lease the property under terms substantially similar to those described in this lease but agreed upon by the parties in a separate Commercial Lease. Should Tenant fail to notify Landlord of its intent to rent the first-floor space within thirty days of written notice of its availability, the right of first refusal shall expire and the Landlord shall be free to market the property to any and all other renters.

**NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

**LANDLORD:**

Johnson Drive Duplex I, LLC  
13816 Pembroke Lane  
Leawood, KS 66224

**TENANT:**

City of Edgerton  
312 East Nelson Street, Suite B  
Edgerton, KS 66021

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

**GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of Kansas.

**ENTIRE AGREEMENT/AMENDMENT.** This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**WAIVER.** The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

**BINDING EFFECT.** The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

**LANDLORD:**  
**Johnson Drive Duplex I, LLC**

By: \_\_\_\_\_  
Cody Ketzner, Member

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Patrick Daly, Member

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Curtis Ketzner, Member

Date: \_\_\_\_\_

**TENANT:**  
**City of Edgerton**

By: \_\_\_\_\_  
Don Roberts, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Alexandria Clower, City Clerk

Date: \_\_\_\_\_



**EDGERTON**  
global routes. local roots.

404 East Nelson  
Edgerton, KS 66021  
P: 913.893.6231  
EDGERTONKS.ORG

## City Council Action Item

---

**Council Meeting Date:** June 24, 2021

**Department:** Administration

**Agenda Item: Consider Ordinance No. 2082 Amending Chapter VIII, Article 2, Section 8-207 Of The City Code Of The City Of Edgerton, Kansas And Repealing All Ordinances Or Parts Of Ordinances In Conflict Therewith**

**Background/Description of Item:**

A review of the Edgerton Municipal Code by the Municipal Judge, Prosecutor and City Staff, noted that there is no minimum daily fine amount listed for a violation of Chapter VIII, Article 2, *Health Nuisances* when the complaint is heard in Edgerton Municipal Court. Having an expressly outlined minimum daily amount sets the starting point by which fines may be assessed so that the Judge may appropriately assess a penalty amount for violations. A red lined version of the amended code section is included for your consideration

This amendment provides the necessary language to update this section of the code. This amendment provides the necessary language to update this section of the code. A draft copy of Ordinance 2082 is included here pending final review by the City Attorney.

**Related Ordinance(s) or Statue(s):** City of Edgerton Ordinance 792 (2005) and Code (1995).

---

**Funding Source:** N/A

**Budget Allocated:** N/A

**Finance Director Approval:** N/A

---

**Recommendation: Approval Of Ordinance No. 2082 Amending Chapter VIII, Article 2, Section 8-207 Of The City Code Of The City Of Edgerton, Kansas And Repealing All Ordinances Or Parts Of Ordinances In Conflict Therewith**

**Enclosed:** Chapter VIII, Article 2, Section 8-207 – redlined version  
Ordinance 2082

**Prepared by:** Katy Crow, Development Services Director



## CHAPTER VIII. HEALTH AND WELFARE

---

### ARTICLE 2. HEALTH NUISANCES

8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within 24 hours after death;
- (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
- (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
- (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city. (Ord. 792, 2005; Code 1995; Code 1984; Ord. 391, 1970)

8-202. PUBLIC OFFICER. The Governing Body shall designate a public officer to be charged with the administration and enforcement of this Article. (Ord. 792, 2005; Ord. 482, 1980; Ord. 321, 1955) (See Resolution No. 9-22-05)

8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Public Health Officer, or police or fire personnel. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 792, 2005; Code 1995)

8-204. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 792, 2005; Code 1995)

8-205. ORDER OF VIOLATION. (a) The governing body or its designee, as hereinafter named, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(c) The City Code Enforcement Officer is hereby designated by the governing for the purposes of issuing the order required herein. Such order shall be issued by the City Code Enforcement Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and shall, contain all notices and other information as required by this Article and K.S.A. 12-16173, and amendments thereto. (Ord. 932, 2012; Ord. 792, 2005, Code 1995)

8-206. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of Section 8-201. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the date of serving the order to abate the condition(s) in violation of Section 8-201; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-207 and/or abatement of the condition(s) by the city as provided by Section 8-208. (Ord. 792, 2005; Code 1995)

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association. Upon such complaint in the municipal court, any person found to be in violation of Section 8-201, shall, upon conviction, be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. and upon conviction of any violation of provisions of Section 8-201, be fined in an amount not to exceed \$100 or

~~be imprisoned not to exceed 30 days or be both fined and imprisoned.~~ Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 792, 2005; Code 1995)

8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 8-207, the public officer may seek to remedy violations of this Article in the following manner. If a person to whom an order has been served pursuant to Section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Ord. 792, 2005; Code 1995)

8-209. HEARING. If a hearing is requested within the 10 day period as provided in Section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the

resolution upon the person in the manner provided in Section 8-208. (Ord. 792, 2005; Code 1995)

8-210. **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Ord. 792, 2005; Code 1995))

ORDINANCE NO. 2082

AN ORDINANCE AMENDING CHAPTER VIII, ARTICLE 2, SECTION 8-207 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

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

**SECTION 1.** Chapter VIII, Article 2, Section 8-207 of the City Code of the City of Edgerton, Kansas, is hereby amended to read as follows:

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association. Upon such complaint in the municipal court, any person found to be in violation of Section 8-201, shall, upon conviction, be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 2082, 2021; Ord. 792, 2005; Code 1995)

**SECTION 2.** REPEAL OF CONFLICTING ORDINANCES. All ordinances or sections of ordinances in conflict herewith are hereby repealed.

**SECTION 3.** EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication once in the City's official paper.

PASSED by the Council and APPROVED by the Mayor on this 24<sup>th</sup> day of June, 2021.

---

DONALD ROBERTS, Mayor

ATTEST:

---

ALEXANDRIA CLOWER, City Clerk

APPROVED AS TO FORM:

---

LEE W. HENDRICKS, City Attorney

## City Council Action Item

---

**Council Meeting Date:** June 24, 2021

**Department:** Administration

**Agenda Item: Consider Ordinance No. 2083 Amending Chapter VIII, Article 4, Section 8-409 Of The City Code Of The City Of Edgerton, Kansas And Repealing All Ordinances Or Parts Of Ordinances In Conflict Therewith**

**Background/Description of Item:**

A review of the Edgerton Municipal Code by the Municipal Judge, Prosecutor and City Staff, noted that there is no minimum daily fine amount listed for a violation of Chapter VIII, Article 4, *Junked/Inoperable Motor Vehicles on Private Property* when the complaint is heard in Edgerton Municipal Court. Having an expressly outlined minimum daily amount sets the starting point by which fines may be assessed so that the Judge may appropriately assess a penalty amount for violations. A red lined version of the amended code section is included for your consideration

This amendment provides the necessary language to update this section of the code. This amendment provides the necessary language to update this section of the code. A draft copy of Ordinance 2083 is included here pending final review by the City Attorney.

**Related Ordinance(s) or Statue(s):** City of Edgerton Ordinances 2056 (2020), 794 (2005), and 638 (1993).

---

**Funding Source:** N/A

**Budget Allocated:** N/A

**Finance Director Approval:** N/A

---

**Recommendation: Approval Of Ordinance No. 2083 Amending Chapter VIII, Article 4, Section 8-409 Of The City Code Of The City Of Edgerton, Kansas And Repealing All Ordinances Or Parts Of Ordinances In Conflict Therewith**

**Enclosed:** Chapter VIII, Article 4, Section 8-409 – redlined version  
Ordinance 2083

**Prepared by:** Katy Crow, Development Services Director

## CHAPTER VIII. HEALTH AND WELFARE

---

### ARTICLE 4. JUNKED/INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY

8-401. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles, recreational vehicles, trailers, truck campers, jet skis and boats affect the health, safety and general welfare of citizens of the city because they:

- (a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (c) Are a ready source of fire and explosion;
- (d) Encourage pilfering and theft;
- (e) Constitute a blighting influence upon the area in which they are located;
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-402. DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise:

- (a) Inoperable - means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed.
- (b) Vehicle - means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (c) Recreational Vehicle – means a vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use, and which has its own motive power or is mounted on or drawn by another vehicle.
- (d) Trailer – means every vehicle without motive power or an engine designed to be towed behind a motor vehicle.
- (e) Truck Camper – means any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.
- (f) The term Motor Vehicle as used in this Article shall include vehicles, recreational vehicles, trailers, truck campers, jet skis and boats.  
(Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-403. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.



- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
- (1) Absence of a current registration plate upon the vehicle;
  - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
  - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
  - (4) The provisions of this article shall not apply to any motor vehicle which is enclosed in a garage or other building.
- (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-404. PUBLIC OFFICER. The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 794, 2005; Ord. 638, 1993)  
(See Resolution No. 09-22-05)

8-405. COMPLAINTS; INQUIRY AND INSPECTION. The public officer may make inquiry and inspection of premises when he or she observes conditions which appear to constitute a nuisance or is informed that a nuisance may exist by the board of health, or police or fire personnel. The public officer may additionally make such inquiry and inspection upon receipt of a complaint stating that a nuisance exists. (Ord. 2056, 2020; Ord. 932; Ord. 794, 2005; Ord. 638, 1993)

8-406. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-407. ORDER OF VIOLATION. (a) The governing body or its designee, shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of Section 8-403 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is

unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

- (c) The City Code Enforcement Officer is hereby designated by the governing body for the purposes of issuing the order required herein. Such order shall be issued by the City Code Enforcement Officer upon the filing of a written statement of a violation of this Article. The order shall be issued in the name of the governing body; shall be served as required in this Article; and, shall contain all notices and other information as required by this Article and K.S.A. 12-1617e, and amendments thereto. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-408. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of Section 8-403. The notice shall also inform the person, corporation, partnership or association that:

- (a) He, she or they shall have 10 days from the date of service of the notice to abate the condition(s) in violation of Section 8-403; or
- (b) He, she or they have 10 days from the date of service of the notice to request a hearing before the governing body or the city attorney as its designated representative of the matter as provided by Section 8-412;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-407 and/or abatement of the condition(s) by the city as provided by Section 8-410. (Ord. 2056, 2020; Ord. 794, 2005; Ord. 638, 1993)

8-409. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person. Upon such complaint in the municipal court, any person found to be in violation of Section 8-403, shall, upon conviction, be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. ~~and upon conviction of any violation of provisions of Section 8-403, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned.~~ Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 2056, 2020; Ord. 794, 2005; Ord. 638, 1993)

8-410. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 8-409, the public officer may seek to remedy violations of this Article in the following manner: If a person to whom a notice has been sent pursuant to Section 8-407 has neither alleviated the condition(s) causing the alleged violation or requested a hearing before the governing body or the city attorney as its designated representative within the time period specified in Section 8-408, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten (10) days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged

against the lot or parcel of ground on which the nuisance was located as provided in Section 8-413. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this Section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

**8-411. DISPOSITION OF MOTOR VEHICLE; RECOVERY OF MOTOR VEHICLE. (a)**

Disposition of any motor vehicle removed and abated from private property pursuant to this ordinance shall be as provided by K.S.A. Supp. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

**8-412. HEARING.** If a hearing is requested within the ten (10) day period as provided in Section 8-408, such request shall be made in writing to the City Clerk. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or the city attorney as its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or the city attorney as its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or the city

attorney as its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in Section 8-410. (Ord. 20562020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-413. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to Section 8-410, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993)

8-414. RESTORATION PERMIT. Upon written application and approval by the city council, an applicant may receive a permit to park or store an inoperable motor vehicle actively used for vehicle restoration. The permit shall be valid for a period of three (3) months and shall be issued when an applicant demonstrates sufficient proof that the inoperable vehicle is actively being used for vehicle restoration. It shall be up to the city council discretion whether the current restoration permit may be extended for an additional three (3) month period. A written application shall be submitted to the City Clerk with a restoration permit fee as established by the City of Edgerton Fee Resolution. At no time may any vehicle parts be stored outside, and the vehicle shall not be allowed to become a public health nuisance or eyesore. If the vehicle is not fully operable upon expiration of the permit, the vehicle shall be removed by the City. (Ord. 2056, 2020; Ord. 932, 2012; Ord. 794, 2005; Ord. 638, 1993).

ORDINANCE NO. 2083

AN ORDINANCE AMENDING CHAPTER VIII, ARTICLE 4, SECTION 8-409 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

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

**SECTION 1.** Chapter VIII, Article 4, Section 8-409 of the City Code of the City of Edgerton, Kansas, is hereby amended to read as follows:

8-409. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person. Upon such complaint in the municipal court, any person found to be in violation of Section 8-403, shall, upon conviction, be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment for each offense. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 2083, 2021; Ord. 2056, 2020; Ord. 794, 2005; Ord. 638, 1993)

**SECTION 2.** REPEAL OF CONFLICTING ORDINANCES. All ordinances or sections of ordinances in conflict herewith are hereby repealed.

**SECTION 3.** EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication once in the City's official paper.

PASSED by the Council and APPROVED by the Mayor on this 24<sup>th</sup> day of June, 2021.

---

DONALD ROBERTS, Mayor

ATTEST:

---

ALEXANDRIA CLOWER, City Clerk

APPROVED AS TO FORM:

---

LEE W. HENDRICKS, City Attorney

## MEMORANDUM

Date: June 24, 2021  
To: City of Edgerton Governing Body  
From: Katy Crow, Development Services Director  
Re: Status Update – 502 E. 2<sup>nd</sup> Street, Edgerton, Kansas

On January 14, 2021 the Edgerton City Council passed Resolution 01-14-21D which requires the owners of 502 E. 2<sup>nd</sup> Street, Edgerton, Kansas to resolve the dangerous and unfit structure which exists on said property by July 22, 2021. As part of the requirements in bringing the home into compliance with the code, the Governing Body required monthly updates from owners which show adequate progress is being made.

A fifth walkthrough was performed by City staff with the owner Juan Abundiz on June 24, 2021 to review the status of the project. The last update was provided to the Governing Body on May 13, 2021. Since the last walk-through the owner has lined the house walls around the deck area with OSB and added new deck supports. He plans to use composite decking materials for the deck floor and stair treads. The owner stated that that over the next week they planned to focus on the roof and siding.

In addition, Everygy has been out to disconnect service to the home so that the homeowner can continue working in the area where the electrical meter and panel was located. He is upgrading to a 200 AMP service so a meter set will be required when he gets to that stage. Additionally, Everygy removed some tree limbs that were over the power lines which posed a risk during inclement weather.

Mr. Abundiz represented that he had been in contact with several HVAC contractors however he is unable to get one to come onsite and do the install work he needs due to the extreme heat and summer weather we have been experiencing. The HVAC contractors he has spoken with have told him that they need to do their work before plumbing and electrical so he is waiting to move forward with that work until the HVAC is installed.

Staff again reiterated to Mr. Abundiz that Resolution 01-14-21D does set a deadline of July 22, 2021 for the house to no longer be considered an unsafe or dangerous structure. Mr. Abundiz has represented a variety extenuating circumstances that have slowed his progress more than he anticipated: Extreme cold in February of 2021, extreme heat in June of 2021, building materials shortage due to pandemic and finally Mr. Abundiz's work van was broken into and all of his tools were stolen in early June 2021.

Staff requests council direction on how to proceed and if a new resolution should be brought forward on July 22 extending the deadline for having work completed. Staff will have one more



walk through and report to provide at the July 8 City Council meeting which would be prior to the deadline set by the initial resolution.





