

EL DORADO CITY COMMISSION – REGULAR MEETING AGENDA
CITY HALL – 220 E. FIRST AVENUE
March 18, 2019 – 6:30 PM

- 1. Call to Order**
- 2. Roll Call**
- 3. Invocation –**
- 4. Pledge of Allegiance**

Proclamations and Recognition

- 5. None**

Personal Appearances. Personal appearances are opportunities for organizations or citizens to make special presentations before the City Commission. Such appearances are scheduled in advance of the meeting by calling City Clerk Tabitha Sharp at (316) 321-9100 by 5:00 pm the Tuesday preceding the meeting. Presentations are limited to ten minutes. Any presentation is for information purposes only; no action will be taken.

- 6. None**

- 7. Public Comments.** Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of the City Commission may do so when called upon the Mayor. Comments on personnel matters and matters pending in court are not permitted. Speakers are limited to three minutes. Any presentation is for information purposes only; no action will be taken.

Consent Agenda (*Consent agenda items will be acted on by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.*)

- 8. None.**

Old Business

- 9. None**

New Business

- 10. Application to Rezone 610 SW Purity Springs Road**
- 11. Zoning Ordinance Amendments**
- 12. Cereal Malt Beverage Municipal Code Amendment**
- 13. Municipal Code Amendment Pertaining to the Municipal Court**
- 14. Approval of Industrial Park Master Plan**

Reports

- 15. City Commission and Advisory Board Updates**
- 16. City Manager**

Executive Session

- 17. None**

Adjournment

18. Consideration of a motion to adjourn the March 18, 2019 regular meeting

PUBLIC COMMENT POLICY:

Citizens are encouraged to address the City Commission during regularly scheduled meetings. This policy is intended to provide some guidelines to ensure that all El Dorado citizens have a chance to address the Commission.

1. Each citizen will state their name and address before making comments.
2. There are no residency requirements.
3. Each citizen will have 3 minutes to present his or her comments.
4. An extension of time, if necessary, may be approved but must be by a majority of the City Commission.
5. Comments or questions will be directed only to the City Commission.
6. Citizens will follow the decorum policy.
7. Debate or argument between parties in the audience will not be allowed.
8. Certain legal issues may not be discussed. (Examples include but are not limited to personnel issues, lawsuits, etc.)
9. Violation of this public comment policy will result in the citizen being directed to cease or resume sitting.

Approved by the Commission this 2nd day of May 2005.

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Engineering Department
SUBJ: Application to Rezone 610 SW Purity Springs Road
DATE: March 14, 2019

Background:

The Planning Commission held a public hearing on February 28th, 2019, to review an application to rezone 610 SW Purity Springs Road from Agricultural Residential District (A-R) to Light Industrial District (I-1). The property is located within El Dorado's Extraterritorial Jurisdiction (ETJ). Butler County supports the request. The Planning Commission voted to recommend approval of the rezoning application (5-0). The staff memo, map, and Planning Commission minutes are attached.

Policy Issue:

Zoning districts restrict properties to a specific set of land uses. Most rezoning applications, such as this one, request a zoning district that is less restrictive and allows an increase in land use intensity.

Alternatives:

Not applicable.

Fiscal Impact:

Approval of the zoning map amendment will create little to no fiscal impact at this time.

Trade-offs:

The decision of a governing body to approve zoning districts of higher intensities ultimately encourages and broadens the range of development opportunities. In such instances, this requires balancing community benefits with potential impacts on neighboring properties and municipal infrastructure.

Staff Recommendation:

Approve the rezoning application.

Commission Actions:

Commissioner _____ moved to approve Case No. 19-01-REZ, requesting a rezoning of 610 SW Purity Springs Road to I-1 Light Industrial District and that Ordinance No. _____ be approved.

Commissioner _____ seconded the motion.

Roll Call Vote

Position No. 2	Commissioner Gregg Lewis	_____
Position No. 3	Commissioner Nick Badwey	_____
Position No. 4	Commissioner Kendra Wilkinson	_____
	Mayor Vince Haines	_____
Position No. 1	Commissioner Matt Guthrie	_____



EL DORADO

THE FINE ART OF LIVING WELL

PLANNING COMMISSION MINUTES - DRAFT
February 28, 2019
6:30 p.m.

1. CALL TO ORDER & ROLL CALL

Chairman Tetrick called the meeting to order at 6:30pm.

Members Present:

Scott Hackler
Brad Long
David Stewart
Kelly Tetrick
Gerald Watson

Staff Present:

Jay Shivers
Scott Rickard

Others Present:

Tom Pennycuff	800 S. Taylor
John Brickley	107 SE Bluestem
Roger Cutsinger	120 N. Main

2. APPROVAL OF MINUTES

- a. January 31, 2019 Minutes
- b. February 7, 2019 Minutes

Commissioner Long moved to approve the minutes from the January 31st and February 7th meetings, seconded by Commissioner Hackler. The motion passed (5-0).

3. NEW BUSINESS

ITEM NO. 1 – CASE NO. 19-01-REZ: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST TO REZONE 610 SW PURITY SPRINGS ROAD FROM A-R

AGRICULTURAL-RESIDENTIAL DISTRICT TO I-1 LIGHT INDUSTRIAL DISTRICT.

A) PRESENTATION OF REQUEST

Jay Shivers reviewed the staff memo. John Brickley showed the Planning Commission proposed building locations for Wheatland Construction, Sunflower Services, and AJ's oilfield services.

Commissioner Long asked if there are working oil wells on the property. Mr. Brickley said there are two producing wells on the property and they may be interested in drilling a couple more. Commissioner Long asked if they would connect to the city sewer. Mr. Brickley said they'll do what the city asks them to do. Tom Pennycuff, representing Sunflower Services, said the state would require them to tap into the city water and sewer lines in the area.

Chairman Tetrick asked if they would access the property using SW Purity Springs Road. Mr. Pennycuff said they would.

Commissioner Long asked if I-1 allows outdoor storage. Mr. Shivers said it is allowed. Commissioner Long asked if Mr. Brickley plans to have outdoor storage. Mr. Brickley said they would have some oilfield equipment on the south side, such as trucks and pipe racks. Commissioner Long asked if it would need screening from the house to the north. Mr. Shivers said it will depend on the location of the storage since the property is so big.

Mr. Shivers said letters were sent to all properties within 1,000 feet since the property is outside city limits. He said he received two phone calls to learn more about the rezoning.

B) PUBLIC HEARING

Chairman Tetrick invited anyone who wishes to speak on the matter to do so.

C) DISCUSSION BY PLANNING COMMISSIONERS

Commissioner Hackler asked if water and sewer infrastructure are nearby, do they need to be annexed to use it. Mr. Rickard said it depends on how the development is laid out and subdivided. Commissioner Hackler asked if it places a burden on the city to annex roads near the property. Mr. Rickard said the city would annex SW Purity Springs road along the west boundary of the property.

Commissioner Watson asked if the sewer line is big enough for the property. Mr. Rickard said it is big enough and has capacity. It was installed around 2003 to serve KDOT's facility. Mr. Rickard said that facility is also connected to rural water. He also said the city is working on a master plan that includes water and sewer extensions to the industrial area north of 254.

D) MOTION

Commissioner Stewart moved to recommend approval of the rezoning application as presented, seconded by Commissioner Long.

Roll Call Vote

Commissioner Hackler	Y
Commissioner Long	Y
Commissioner Stewart	Y
Chairman Tetrick	Y
Commissioner Watson	Y

The motion passed (5-0).

ITEM NO. 2 – PUBLIC HEARING TO CONSIDER ZONING ORDINANCE AMENDMENTS

A) PRESENTATION OF REQUEST

Mr. Shivers said the Planning Commission discussed and reviewed the ordinance amendments in February and provided an overview of the ordinance changes up to that point. Mr. Shivers said there are a couple of decisions to be made on changes. There is also one new definition, one definition update, and one section of the ordinance that can be removed as it is no longer relevant.

Mr. Shivers explained that the section being removed says that newly annexed property is automatically zoned R-1, one of the most restrictive classifications in the zoning ordinance. Months after the last major zoning ordinance update, the city worked with the Butler County to acquire zoning jurisdiction for three miles around the city. With the new jurisdiction, the city no longer needs to automatically rezone properties to R-1 upon annexation.

Mr. Shivers said the Floor Area definition update tweaks the existing definition to apply to the new infill housing regulation, focusing on measuring everything above grade.

Mr. Shivers said the Planning Commission discussed prohibiting shipping containers in residential areas versus regulating them. Mr. Shivers said he did a city survey and found that a majority of cities in Kansas are currently prohibiting shipping containers in residential areas as permanent accessory structures and allowing them for temporary uses.

B) PUBLIC HEARING

Chairman Tetrick opened the public hearing. There being no one to speak, the public hearing was closed.

C) DISCUSSION BY PLANNING COMMISSIONERS

Commissioner Long asked how many containers are currently in residential areas. Mr. Shivers said he is aware of two. He said none have been permitted and the city does not currently have regulations for shipping containers. Commissioner Long asked if the regulations would affect the existing containers. Mr. Shivers said that some cities will add a line to the ordinance giving existing shipping containers a time period to conform to the new rules.

The Planning Commission discussed how to move forward with voting and if the infill regulation needed to mention larger/smaller homes may be allowed by variance or SUP. The Commission decided it was already eligible for a variance and wording should stay as it was presented.

Commissioner Watson asked about lot sizes for properties platted before 1951 and how the reduced setback would apply. Mr. Shivers said many lots are as small as 40 feet wide and that most people on larger lots would prefer not to place a garage close to a lot line. That typically happens on smaller lots where owners have little space to work with.

Commissioner Stewart said accessory structures should be subservient to principal structures in scale and height. He said they have the scale part in the proposed changes. Commissioner Stewart said he was concerned about accessory structures matching the peak height of a home, using a flat or low pitch roof and having tall side walls. The Planning Commission discussed the advantages and disadvantages of using peak height of the accessory structure to peak height of principal structure, side wall height limits, and using the code definition of structure height which is usually the midpoint of the roof of a principal structure, not the peak.

D) MOTION

Commissioner Stewart moved to modify the proposed height language by requiring the peak of the accessory structure to not exceed the midpoint of the principal structure and the slope to be compatible with the principal structure to within 1/12 of the primary slope, seconded by Commissioner Hackler. The motion carried (5-0). Commissioner Stewart moved to approve the proposed residential accessory structure size, height, and setback amendments, seconded by Commissioner Long. The motion carried (5-0).

The Planning Commission reviewed the shipping container regulations. Commissioner Long moved to prohibit shipping containers as residential accessory structures and allow for temporary use as presented, seconded by Commissioner Watson. The motion carried (5-0).

The Planning Commission reviewed the proposed infill regulations. Commissioner Stewart moved to approve the infill regulation amendment as presented, seconded by Commissioner Hackler. The motion carried (5-0).

Commissioner Stewart moved to approve the new and updated definitions as presented, seconded by Commissioner Hackler. The motion carried (5-0).

The Planning Commission reviewed the by-law changes and discussed the differences between the Planning Commission and Board of Zoning Appeals. Commissioner Hackler moved to approve the proposed by-laws changes as presented, seconded by Commissioner Watson. The motion carried (5-0).

Commissioner Long moved to remove the annexation section from the zoning ordinance as presented, seconded by Commissioner Hackler. The motion carried (5-0).

4. OLD BUSINESS

5. STAFF ITEMS

6. ADJOURNMENT

The meeting adjourned at 7:53pm.

PLANNING COMMISSION MEMORANDUM

TO: Planning Commission
FROM: Jay Shivers, AICP, City Planner
CC: Scott Rickard, Engineering Director
RE: Zone Change Application – 610 SW Purity Springs Road

Tom Pennicuff, representing Brickley Enterprises, is requesting a zone change from A-R Agricultural Residential District to I-1 Light Industrial District on 61 acres at 610 SW Purity Springs Road. The land is currently undeveloped with some light oil production. A-R is the most restrictive zoning district in the zoning ordinance, allowing low density residential and agricultural activities on lots no smaller than 40 acres.

The property is located in the City of El Dorado's Extraterritorial Jurisdiction (ETJ), also known as the Growth Area. The City of El Dorado has jurisdiction over land uses within this area. However, all building permits are issued by Butler County.

The regulations state the Planning Commission shall make findings of fact to determine whether the application is found to be compatible with the following:

- A) *Character of the neighborhood.* The area consists of a mix of agricultural and industrial land uses. Land uses to the north across highway 254 are industrial in nature, with undeveloped land marketed for industrial development. Land across the Kansas Turnpike to the east is generally undeveloped and zoned for industrial and agricultural uses. Land to the south and west is a mix of industrial, agricultural, and low density residential.
- B) *Consistency with the Comprehensive Plan and ordinances of the City of El Dorado.* The Future Land Use Map (FLUM) designates the subject property Commercial, which includes "commercial, retail, restaurant and professional office land uses that serve the needs of the community as a whole and perhaps a larger region."
- C) *Adequacy of public utilities and other needed public services.* If developed, the property will be annexed in order to connect to the city's sewer system. The property has access to rural water.
- D) *Suitability of the uses to which the property has been restricted under its existing zoning.* A-R is one of the most restrictive zoning districts in the zoning ordinance and uses are restricted to agricultural or low density residential. The land was used for agricultural purposes until around 2010, when the property was no longer maintained or used for agricultural uses.
- E) *Length of time property has remained vacant as zoned.* There is no record of development on the property.

F) *Compatibility of the proposed district classification with nearby properties.* The land uses allowed in I-1 Light Industrial are compatible and consistent with the existing land uses in the area.

G) *The extent to which the zoning amendment may detrimentally affect nearby properties.* The property is generally encompassed by two highways, creating some buffer space between this property and many of the surrounding properties. However, there is a residence immediately to the west of the subject parcel that could, depending on development, experience the general light, sound, and noise impacts created by industrial operations. The zoning ordinance provides some protections for residential property, but without a site plan and an understanding of future operations, it is difficult to accurately project future impacts.

H) *Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.* Due to the existence of industrial and highway development in the area, it is difficult to determine impacts the rezoning will create relative to the public gain.

This property is generally surrounded by industrial uses with industrial growth projected in the area. The city expects growth in the El Dorado Business Park to the east and in the West El Dorado Industrial Park to the north. The FLUM designates the property as Commercial, yet the city is not aware of any interest for such a development, whereas the city has seen continued interest in industrial development around the west and northwest areas of the city. Though it is apparent that industrial is a good fit for the area, it is not without its potential impacts to the overall area. Generally, industrial development is not aesthetically pleasing and may have an impact on this gateway into the city.

Butler County supports the rezoning request. For these reasons discussed in the above memo, staff recommend approval of the rezoning request.

Adoption of this amendment requires a majority vote of the Planning Commission members present and voting.

Suggested Motion:

I move to recommend approval of Case No. 19-001-REZ, an application by Brickley Enterprises, to rezone 610 SW Purity Springs Road, from A-R Agricultural Residential District to I-1 Light Industrial District, for reasons stated in the staff recommendation and heard at this public hearing.



**Subject
Property**

**City
Limits**

610 SW Purity Springs



February 25, 2019

Mr. Jay Shivers
City of El Dorado
220 E. 1st St.
El Dorado, KS 67042

Ref: Brickley Enterprises Zoning Change

Dear Jay:

The Staff of Butler County Community Development was made aware of a possible request for a Change in Zoning from Brickley Enterprises on a tract of land they recently purchased. Commonly known as 610 SW Purity Springs Rd. The Zoning requested would be Light Industrial to accommodate their business activity.

Given the type of business that will be conducted on the site and the types of land uses that currently exist on three sides of the site in question, Butler County has no problem supporting the request.

If you need any additional information or have any further questions please feel free to call me at 316-322-4325 and I will be happy to address them for you.

Sincerely,

A handwritten signature in blue ink that reads "David A. Alfaro". The signature is fluid and cursive.

David A. Alfaro
Director

ORDINANCE NO. _____

AN ORDINANCE ZONING CERTAIN LAND IN THE CITY OF EL DORADO, KANSAS, EXTRATERRITORIAL JURISDICTION I-1 LIGHT INDUSTRIAL DISTRICT AND AMENDING THE ZONING MAP OF THE CITY

WHEREAS, it is determined by the Governing Body of the City of El Dorado, Kansas, that certain property located within the City should be zoned;

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

Section 1: That the following described real estate should be and is hereby I-1 Light Industrial District:

610 SW Purity Springs Road:

The Southwest Quarter (SW4) of Section 5, Township 26 South, Range 5 East of the Sixth Principal Meridian in Butler County, Kansas; EXCEPT Beginning at a point which is 1311.60 feet East of the Southwest corner of said Section 5; thence East 98 feet; thence North 806.55 feet to a point on the South Right-of-way line, of the Kansas Turnpike Authority; thence Southwesterly along said Kansas Turnpike Authority Right-of-way line, to a point opposite of Station 6132+33.5 of said Kansas Turnpike Authority ; thence Southeasterly along the Kansas Turnpike Authority Right-of-way line of the Kansas Turnpike overpass, a distance of 343.30 feet; thence Southeasterly along a circular curve to the left, with a radius of 460 feet, a distance of 300.13 feet; thence east tangent to said curve, a distance of 62.95 feet; thence South with a deflection angle of 9000' Right, a distance of 46.01 feet to the Beginning of said Exception; ALSO EXCEPT those portions taken for roadway including the Kansas Turnpike in Case 23302 and State Highway in Case 22439. Said Tract has a net acreage of 61.63 Acres.

Section 2: The Governing Body hereby directs that the City Zoning map be amended to conform herewith.

Section 3: This Ordinance shall take effect and be in full force from and after its publication once in the official city newspaper.

PASSED by the Governing Body of the City of El Dorado, Kansas, and

APPROVED by its Mayor, this 18th day of March, 2019.

Vince Haines, Mayor

ATTEST:

Tabitha Sharp, City Clerk

APPROVED AS TO FORM:

Ashlyn Lindskog, City Attorney

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Engineering Department
SUBJ: Zoning Ordinance Amendments
DATE: March 14, 2019

Background:

The last major update to the Zoning Ordinance took place in 2009 when the City of El Dorado adopted the 2030 El Dorado Comprehensive Plan. Since that time, staff have led a number of minor changes to the ordinance with the last two changes coming in 2016 and 2018 to adjust fence heights and application fees, respectively. In fall of 2018, the City Commission directed staff and the Planning Commission to review residential accessory structure regulations and to look into the topic of tiny homes.

Over the last three months, the Planning Commission discussed amending the zoning ordinance to improve residential accessory structure regulations, regulate infill development, and regulate the use of shipping containers in residential areas as well as amend the by-laws to include a representative to the Board of Zoning Appeals.

Policy Issue:

The Zoning Ordinance regulates land use and development within the City of El Dorado. Current regulations are similar to those in place at every municipality in Kansas similar in size and larger than El Dorado. At the City Commission's request, staff and the Planning Commission identified opportunities to improve the ordinance. In summary, the proposed amendments:

- Link residential accessory structure size to principal structure size. This is common across the state of Kansas and focuses residential development on the principal structure. Said regulation prevents non-residential structures from becoming the dominant structures in residential neighborhoods.
- Allows eligible property owners to build a residential accessory structure as large as 1,500 square feet to do so without a Special Use Permit if the structure uses matching building materials as viewed from public property and a minimum 60 foot front setback.
- Residential accessory structure height regulation changed to link height and roof pitch to that of the principal structure rather than a set side wall height that has historically prevented storing of taller recreation vehicles in said structures.
- Reduces side yard setbacks on lots platted prior to 1951, solving a widespread problem for property owners with detached garages near property lines that cannot be rebuilt in their current location.
- Prohibits use of shipping containers in residential areas as permanent accessory structures and provides for temporary use. Many cities within the state already prohibit permanent residential containers.
- Regulates infill housing size to prevent excessively small or excessively large development within established neighborhoods that may negatively impact surrounding properties and to maintain the scale and character of the neighborhood.

- Removes annexation zoning language from the zoning ordinance, a paragraph that was essential prior to gaining jurisdiction outside limits but is no longer needed.
- Updates by-laws to allow for a Planning Commission Representative to sit on the Board of Zoning Appeals.

Alternatives:

The alternative is to leave the ordinance as-is. The Zoning Ordinance as it stands today adequately regulates accessory structures and is similar to, and generally less restrictive, than most cities within the state of Kansas. However, the ordinance does not currently address residential infill and shipping containers. The steady demolition and redevelopment in El Dorado's older neighborhoods have led to concerns about the size of infill structures. Likewise, the increasing availability of shipping containers has increased interest in using them as residential accessory structures. Overall, the proposed amendments generally add flexibility to the ordinance and grants certain protections to residential property owners.

Fiscal Impact:

Approval of the zoning amendments will create little to no fiscal impact on the City of El Dorado.

Staff Recommendation:

Approve the zoning ordinance and by-law amendments.

Commission Actions:

Commissioner _____ moved to approve zoning ordinance amendments to revise residential accessory structure regulations, prohibit shipping containers as residential accessory structures, regulate infill housing sizes and amend the Planning Commission by-laws as presented and that Ordinance No. _____ be approved.

Commissioner _____ seconded the motion.

Roll Call Vote

Position No. 3	Commissioner Nick Badwey	_____
Position No. 4	Commissioner Kendra Wilkinson	_____
	Mayor Vince Haines	_____
Position No. 1	Commissioner Matt Guthrie	_____
Position No. 2	Commissioner Gregg Lewis	_____

Attachment A: Summary of Zoning Ordinance Amendments				
		Current	Proposed	Impact Summary
Residential Accessory Structures	Square Footage	1,200 square feet maximum, larger by SUP	Up to 1:1 ratio of gross square footage of principal structure to accessory structure, up to 1,200 square feet.	Prevents accessory structures larger than principal structure
			1:1 ratio up to 1,500 square feet with 60 foot front setback and matching building materials.	Provides avenue to bypass the SUP process for a 1,500 square foot accessory structure, the most frequently requested size.
			Larger by SUP	Continues to provide an option for larger sizes, especially when there are special circumstances.
	Height	12 feet at the side wall	Peak of accessory structure shall not exceed principal structure height, roof pitch must be compatible with principal structure (within 1/12 of primary slope).	Provides flexibility for acc. structure height, especially for those with tall vehicles that need slightly taller garage doors than fit under current regs.
	Side Setbacks	10% of lot width, no less than eight feet and no more than 15 feet, lots platted before 1951 may build as close as five feet to property line.	Adds: Acc. structures on lots platted prior to 1951 may be build as close as three feet to property line.	Allow garages located on or near property lines to be rebuilt.
Cargo Container - Residential Areas	Temporary Use	No regulation	Allow for up to 60 days for construction/remodeling/moving purposes	Allows contractors to use for remodeling/construction purposes, allows home owners temporary storage or moving containers (PODS)
	Permanent Use/Accessory Structure	No Regulation	Prohibit use as accessory structure	Reduce improper use and location of containers that can be unsightly, dangerous, and inappropriate so as to affect property values and the overall health, safety, and welfare of the neighborhood
Infill Housing	Structure Size	No Regulation	Infill housing size must be 75%-125% of existing houses.	Maintains character and scale of existing neighborhoods by limiting new housing to sizes that are compatible with existing housing.



EL DORADO

THE FINE ART OF LIVING WELL

Attachment B: Draft Zoning Ordinance Amendments

Planning Commission By-Laws

ARTICLE II - PART I - OFFICERS

1. The Planning Commission shall organize annually at the first regular meeting after the appointment of new members.
2. The Commission shall elect a Chairman, Vice-Chairman, **and a Board of Zoning Appeals Representative** from among the appointed members at the annual organization meeting. These officers shall serve for one year and until their successors have been elected.
3. A Secretary shall be selected for an indefinite term. It is not required that he or she be a member of the Commission.

ARTICLE II - PART II – DUTIES OF OFFICERS

1. Chairman: The Chairman shall preside at all meetings and public hearings of the Planning Commission and shall:
 - a. decide all points of order and procedure;
 - b. certify plans and subdivision plats;
 - c. transmit reports and recommendations of the Planning;
 - d. Commission to the City Commission; and
 - e. inform petitioners of decisions.

2. Vice-Chairman: The Vice-Chairman shall assume the duties of the Chairman in his absence.

3. Secretary: The Secretary shall be responsible for:

- a. keeping the minutes of the Planning Commission meetings;
- b. sending agenda to members of the Planning Commission;
- c. carrying out written correspondence;
- d. maintaining the records of the Commission;
- e. certifying, along with the Chairman, all plans and subdivision plats; and
- f. performing other duties as the Planning Commission may require.

4. Board of Zoning Appeals Representative: The Representative shall attend Board of Zoning Appeals meetings as a representative of the Planning Commission and report Variance and Appeals cases back to the Planning Commission.

Article 6 – Supplementary District Regulations, Section 3 Accessory Structures

A. A detached garage or other accessory structure, no greater in gross floor area than twenty five percent (25%) of the lot area, provided ~~that no part of such structure exceeds 1,200 square feet in gross floor area; and shall not exceed 12 feet in height at the sidewall; provided, however, larger accessory structures may be allowed by Special Use Permit.~~

1. Such shall have no greater than 1:1 ratio of gross floor area of principal structure to accessory structure, not to exceed 1,200 square feet. Accessory structures may be allowed up to 1,500 square feet in gross floor area when located at least 60 feet from the front property line and portions of the structure visible from public property match the building materials of the principal structure.

2. Such shall not exceed the structure height of the principal structure and shall be consistent with the principal structure roof pitch to within 1/12 of the primary slope.

3. However, larger accessory structures may be allowed by Special Use Permit.

Article 3 – Rules and Definitions

Floor Area: ~~For Computing Off-Street Parking Requirements:~~ Shall mean the gross floor area of the structure measured from the exterior faces of the exterior walls or from the centerline of walls separating two structures and shall include the following areas:

- A. The basement floor area, **excluded for accessory structure calculations.**
- B. The area of each floor of the structure.
- C. The attic space having headroom of seven (7) feet or more.

Article 6 – Supplementary District Regulations

All New Text

22. Shipping Containers

Shall only be allowed on properties zoned for residential or used for residential purposes for up to (60) days in a calendar year for the purpose of temporary storage of construction materials, equipment, and household items associated with new construction or major house remodel, renovation, or restoration project, or for moving purposes. Said containers must be placed on private property on a hard surface. The Zoning Administrator may extend the period upon showing of good cause by the property owner. Shipping Containers are prohibited from being used as accessory buildings on such properties.

Article 3 – Rules and Definitions

All New Text

Shipping Container: A steel container with strength to withstand shipment, storage, and handling. Such containers include reusable steel boxes, freight containers, and bulk shipping containers; originally a standardized reusable vessel that was designed for and used in the

parking, shipping, movement, transportation, or storage of freight, articles or goods, or commodities; generally capable of being mounted or moved on a rail car, truck trailer, or loaded on a ship.

Article 6 – Supplementary District Regulations

All New Text

23. Residential Infill

Residential construction on previously developed lots in established neighborhoods shall maintain a gross floor area of 75% to 125% of the average gross floor area of the existing residential structures located on the same side of the street between two intersecting streets.

Article 6 – Supplementary District Regulations, Section 2 Yard Regulations

(5) d. Lots which were of record prior to the passage of Ordinance G-65 (August, 1951) shall be subject to the following yard regulations:

- Front Yard: A front yard of 30 feet shall be provided except where lots comprising 40 percent or more of the frontage, on the same side of the street between two intersecting streets are developed with structures having front yards with a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the remainder of the frontage, except that such front yard shall not be less than 15 feet.
- Rear Yard: The depth of the rear yard shall be at least 25 feet.
- Side Yard: There shall be a side yard on each side of a principal structure not less than ten percent of the width of the lot; except that such side yards shall not less than five feet and need not be more than 15 feet. **There shall be a side yard of not less than three feet for accessory structures.** Structures on corner lots shall provide a side yard on street side of not less than ten feet.

Article 4 – General Provisions, Section 7 Annexed Land

Removing all of the Annexed Land section, shown below in red.

Annexed Land: All land which may hereinafter be annexed to the City of El Dorado shall be classified R-1, Residential-Low Density District, and shall be re-classified only after a public hearing by the Planning Commission and recommendation to the Governing Body as provided in these regulations for zoning district amendments. The public hearing by the Planning Commission to adopt a recommendation may be held prior to annexation of the subject parcel of land to the City.

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Cereal Malt Beverage Municipal Code Amendment
DATE: March 14, 2019

Background:

Effective April 1 2019, Cereal Malt Beverage (CMB) Retailers – both general (drink on premise) and limited (carry-out/drink off premise) will be able to sell beer containing not more than 6% alcohol by volume. State law also increased city occupation taxes allowed by cities for beer distributor and added three new license categories/city occupation tax for caterers, wine distributors and public venues. The amended ordinance is attached.

Policy Issue:

The City Commission must approve all amendments to the municipal code, and the code must be amended to comply with State Statute.

Fiscal Impact:

The only fiscal impact will be the publication of the ordinance.

Trade-offs:

None

Staff Recommendation:

Approve the ordinance.

Commission Actions:

Commissioner _____ moved to approve Ordinance No. _____, an ordinance amending the City of El Dorado, KS Municipal Code Sections 4.04.010 and 4.08 as it pertain to the sale of Cereal Malt Beverages.

Commissioner _____ seconded the motion.

Roll Call Vote

Position No. 4	Commissioner Kendra Wilkinson	_____
	Mayor Vince Haines	_____
Position No. 1	Commissioner Matt Guthrie	_____
Position No. 2	Commissioner Gregg Lewis	_____
Position No. 3	Commissioner Nick Badwey	_____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL DORADO AMENDING
CHAPTER 4 OF THE EL DORADO MUNICIPAL CODE
PERTAINING TO CEREAL MALT BEVERAGES**

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

Section 1: Section 4.04.010 of the City of El Dorado Municipal Code shall be added or amended to read as follows:

4.04.010 Definitions

“Beer” means beer as defined by K.S.A. 41-102 and amendments thereto, but containing not more than 6% alcohol by volume.

“Cereal malt beverage” means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in K.S.A. 41-2729 and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

“Off-premises retailer” means a person who is licensed under the Kansas cereal malt beverage act and who sells or offers for sale any cereal malt beverage or beer in original and unopened containers that is not for consumption on the premises.

“On-premises retailer” means a person who is licensed under the Kansas cereal malt beverage act and who sells or offers for sale any cereal malt beverage or beer for consumption on the premises.

“General Retailer” and “Limited Retailer” shall be removed from the definitions.

Section 2: Section 4.08.010 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.005 License Issued by City

The “Cereal Malt Beverage License” issued by the city of El Dorado, KS pursuant to this ordinance, authorizes the sale of beer or cereal malt beverages as defined in section 1, by those retailers in compliance with this ordinance and other laws and regulations that may apply.

Section 3: Section 4.08.080 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.080 License Fee

- A. The rules and regulations regarding license fees shall be as follows:
1. Off-Premise Retailer, for each place of business selling beer or cereal malt beverages at retail, two hundred dollars (\$200.00) per calendar year.
 2. On-Premise Retailer, for each place of business selling beer or cereal malt beverages in original and unopened containers and not for consumption on the premises, fifty dollars (\$50.00) per calendar year.
- B. Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

Section 4: Section 4.08.090 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.090 Suspension of License

The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this ordinance or other laws pertaining to beer or cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

Section 5: Section 4.08.100 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.100 License Suspension/Revocation by the Governing Body

The governing body of the city, upon five days' written notice, to a person holding a license to sell beer or cereal malt beverages shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

- a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- b) If the licensee has violated any of the provisions of this section or has become ineligible to obtain a license under this section;
- c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling beer or cereal malt beverages;
- d) The sale of beer or cereal malt beverages to any person under 21 years of age;
- e) For permitting any gambling in or upon any premises licensed;
- f) For permitting any person to mix drinks with materials purchased in any premises licensed or brought into the premises for this purpose;

- g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
- h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed;
- j) The nonpayment of any license fees;
- k) If the licensee has become ineligible to obtain a license;
- l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

Section 6: Section 4.08.130 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.130 Wholesalers and/or Distributors

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver beer or cereal malt beverages within the city, to persons authorized to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.

Section 7: Section 4.08.140 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.140 Business Regulations

It shall be the duty of every licensee to observe the following regulations.

- a) The place of business licensed, and operating shall at all times have a front and rear exit unlocked when open for business.
- b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.
- c) Except as provided by subsection (d), no beer or cereal malt beverages may be sold or dispensed; (1) Between the hours of 12:00 midnight and 6:00 a.m.; (2) in the original package before 12:00 noon or after 8:00 p.m. on Sunday; (3) on Easter Sunday; or (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell enhanced cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises.
- d) Beer or cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601, et seq. and amendments thereto, and licensed as a club by the State Director of Alcoholic Beverage Control.

- e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.
- f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.
- g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.
- h) No licensee or agent or employee of the licensee shall sell or permit the sale of beer or cereal malt beverage to any person under 21 years of age.
- i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
- j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.
- k) No licensee or agent or employee of the licensee shall employ any person under 18 years of age in dispensing beer or cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

Section 8: Section 4.08.160 of the City of El Dorado Municipal Code shall be removed.

Section 9: Section 4.08.170 of the City of El Dorado Municipal Code shall be removed.

Section 10: Section 4.08.180 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.180 Records kept – Availability for Inspection

Every place of business or tavern shall be required to maintain sufficient records to indicate the percentage of gross business obtained from the sale of beer or cereal malt beverages and shall be required to permit inspection of such records at all times during business hours by the city clerk or by any person designated by him or her.

Section 11: Section 4.08.190 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.190 Possession on Unlicensed Premises Prohibited.

No person shall have in his or her possession any alcoholic liquor on premises where beer or cereal malt beverages are sold, except as allowed by State Statute.

Section 12: Section 4.08.200 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.200 Adequate lighting of interior.

The interior of all taverns shall be adequately lighted during business hours with a minimum of at least one-foot candles of light thirty (30) inches above the floor in all portions of the tavern where beer or cereal malt beverages are served, dispensed or consumed.

Section 13: Section 4.08.210 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.210 Purchase, Consumption or Possession of Liquor, Beer or Cereal Malt Beverages by a Minor and Persons Under Twenty-One Years of Age—Penalty.

- a) Except with regard to serving of alcoholic liquor, beer or cereal malt beverage as permitted by KSA 41-308a, 41-2610 or 41-2704 or KSA Supp. 41-308b, and amendments thereto, no person under twenty-one (21) years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor, beer or cereal malt beverage except as authorized by law.
- b) Violation of this section by a person eighteen (18) or more years of age but less than twenty-one (21) years of age is a Class C violation for which the minimum fine is one hundred dollars (\$100.00).
- c) Any person less than eighteen (18) years of age who violates this section is a juvenile offender under Kansas juvenile offenders code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).
- d) In addition to or in lieu of any other penalty provided for a violation of this section, the court may order the offender to do either or both of the following:
 - a. Perform forty (40) hours of public service; or
 - b. Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.
- e) This section shall not apply to the possession and consumption of beer or cereal malt beverage by a person under the legal age for consumption of beer or cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

Section 14: Section 4.08.220 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.220 - Possession or consumption in public street, alley or right-of-way—Unlawful.

It is unlawful for any person to have any beer or cereal malt beverage in his or her possession upon a public street, alley or public right-of-way, except in the original and unopened container, or to use or consume any cereal malt beverage upon any public street, alley or public right-of-way, within the city except as allowed by special permit.

Section 15: Section 4.08.230 of the City of El Dorado Municipal Code shall be amended to read as follows:

4.08.230 - Temporary cereal malt beverage licenses.

- a) The city may issue a special event retailer permit to qualified applicants, authorizing the permit holders to sell and serve beer or cereal malt beverage for consumption on unlicensed premises for temporary events.
- b) Any organization desiring a temporary permit shall make application therefor in writing to the governing body through the city clerk and accompany their application with the required license fee. The application shall be verified and be upon a form prepared by the city clerk and shall contain that information as far as is applicable as is required by section 4.08.020 of this chapter. All applications for temporary permits shall be made twenty-one (21) days prior to the date of the event. The application in addition to the above-required information shall indicate the organization which is applying for the license.
- c) All such temporary license shall be valid for a period of eighteen (18) hours as specified in the license and at the place specified in the application. It is unlawful for any organization to sell the beer or cereal malt beverages at any time other than eighteen-hour period specified or at a place other than as specified in the license application and approved by the governing body.
- d) The fee for temporary beer or cereal malt beverage license shall be twenty-five dollars (\$25.00).
- e) Temporary Permit. No more than four permits may be issued to any one applicant in a calendar year.
- f) All provisions of this chapter not inconsistent with the stated terms of this section shall apply to temporary beer or cereal malt beverage licenses. No license shall be issued unless all of the criteria for a license established by this section and otherwise in this chapter have been met. In addition thereto, no temporary license shall be issued unless adequate trash receptacles are provided and sanitation provisions are made. The applicant is responsible for the litter and other material during and after the event and in addition, the applicant is responsible for demonstrating that adequate parking is available.

Section 16: That all other ordinances or parts of ordinances in conflict herewith are hereby repealed. In all other respects, Chapter 4 shall be and remain unchanged.

Section 17: That the City Clerk is hereby ordered and directed to cause this ordinance to be published once in the official city newspaper.

Section 18: That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect on April 1, 2019.

PASSED AND APPROVED by the Governing Body on this 18th day of March, 2019.

(SEAL)

Kendra Wilkinson, Vice Mayor

ATTEST

Tabitha Sharp, City Clerk

APPROVED AS TO FORM

Ashlyn Lindskog, City Attorney

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Municipal Court Municipal Code Amendment
DATE: March 14, 2019

Background:

The Municipal Court Judge has requested an amendment to the Municipal Code regarding failure to appear.

Our liability insurance has also required an ordinance allowing the payment of municipal court fines through community service. For every one (1) hour of community service completed, which can be verified, the defendant shall receive eight dollars (\$8.00) credit towards municipal court fines. Community Service has to be done in or for a business entity or organization in the City of El Dorado, Kansas. Community Service will not apply to court costs or restitution.

Policy Issue:

The City Commission must approve all amendments to the municipal code, and the code must be amended to comply with State Statute.

Fiscal Impact:

Should someone be charged with Failure to Appear, there is the possibility of \$500 in revenue. Should a defendant choose to use the Community Service option, the City will not receive the fees they have been assessed.

Trade-offs:

None

Staff Recommendation:

None

Commission Actions:

Commissioner _____ moved to approve Ordinance No. _____, an ordinance amending the City of El Dorado, Kansas Municipal Code pertaining to the Municipal Court.

Commissioner _____ seconded the motion.

Roll Call Vote

	Mayor Vince Haines	_____
Position No. 1	Commissioner Matt Guthrie	_____
Position No. 2	Commissioner Gregg Lewis	_____
Position No. 3	Commissioner Nick Badwey	_____
Position No. 4	Commissioner Kendra Wilkinson	_____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL DORADO AMENDING
CHAPTER 2 OF THE CITY OF EL DORADO, KANSAS MUNICIPAL
CODE PERTAINING TO THE MUNICIPAL COURT**

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

Section 1: Section 2.32.075 of the City of El Dorado Municipal Code shall be added to read as follows:

2.32.075 Failure to appear in municipal court.

Any person charged with a violation of any section of the code of the city, which constitutes a misdemeanor or an infraction, who commits any of the following acts is guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment:

- a) Fails to appear in court at the designated time, after being released from custody on bond, with or without surety, or on their own recognizance;
- b) Fails to appear in court, at the designated time, in response to a summons or notice to appear personally served on him or her; or
- c) Fails to appear in court, at the designated time by order of the court, communicated to said person orally or in writing; or
- d) Fails to surrender his or herself to the court within thirty days after his or her conviction of a misdemeanor has become final, when released on an appearance bond with or without surety, or upon his or her own recognizance.

Section 2: Section 2.32.105 of the City of El Dorado Municipal Code shall be added to read as follows:

2.32.105 Community Service

For every one (1) hour of community service completed, which can be verified, the defendant shall receive eight dollars (\$8.00) credit towards municipal court fines.

- a) Community Service shall be done in or for a business entity or organization in the City of El Dorado, Kansas.
- b) Community Service shall not apply to court costs or restitution.

Section 3: That all other ordinances or parts of ordinances in conflict herewith are hereby repealed. In all other respects, Chapter 2.32 shall be and remain unchanged.

Section 4: That the City Clerk is hereby ordered and directed to cause this ordinance to be published once in the official city newspaper.

Section 5: That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately after the date of its final passage and adoption.

PASSED AND APPROVED by the Governing Body on this 18th day of March, 2019.

(SEAL)

Kendra Wilkinson, Vice Mayor

ATTEST

Tabitha Sharp, City Clerk

APPROVED AS TO FORM

Ashlyn Lindskog, City Attorney

2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Approval of the Industrial Park Master Plan
DATE: March 14, 2019

Background:

The City of El Dorado and El Dorado Inc. requested a Master Plan for the Industrial Park. The plan was to be completed for the 280 acres west of the turnpike so that staff could better understand the infrastructure needs, entrances and exits, access to the turnpike and utility needs. PEC has completed the plan and the Commission reviewed it at the work session on March 13th.

Policy Issue:

The City Commission must approve the Master Plan in order for it to be incorporated into the comprehensive plan.

Fiscal Impact:

The cost of the plan was split with El Dorado Inc., the City's responsibility was \$40,650. The funds were paid from the Economic Development fund.

Trade-offs:

None

Staff Recommendation:

Accept the master plan.

Commission Actions:

Commissioner _____ moved to approve the Industrial Park Master Plan and incorporate it into the Comprehensive Plan.

Commissioner _____ seconded the motion.