

ORDINANCE NO. 2119

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE A CONDITIONAL USE PERMIT (CU2021-04) ALLOWING A CARGO CONTAINER STORAGE, REPAIR OR MAINTENANCE FACILITY ON PROPERTY LOCATED NORTH OF 187TH STREET BETWEEN KILL CREEK ROAD AND WAVERLY ROAD (31220 W. 187TH STREET), EDGERTON, KANSAS

WHEREAS, the City of Edgerton received Application CU2021-04 for a Conditional Use Permit from NorthPoint Development, LLC (the "Applicant") on or about November 9, 2021 for property located at 31220 W 187th Street (North of 187th Street between Kill Creek Road and Waverly Road), Edgerton, Kansas (the "Property"); and

WHEREAS, both at the time of application and at the time of the signing of this Ordinance, the Property is owned NorthPoint Development, LLC a validly existing Missouri Corporation; and

WHEREAS, the Applicant is requesting permission to operate, pursuant to the specific terms of a Conditional Use Permit, a cargo container storage, repair or maintenance facility; and

WHEREAS, the Edgerton Planning Commission held a public hearing on December 14, 2021 on the requested Conditional Use Permit in accordance with the requirements as set forth in the Edgerton Zoning Regulations; and

WHEREAS, the Edgerton Planning Commission voted to approve the Conditional Use Permit request, for a period of ten (10) years, conditioned on the following being adhered to by the Applicant and any future owner or tenant of the Property within that ten year period (hereinafter referred to as "Applicant/Owner"):

1. The Conditional Use Permit CU2021-04 approval shall be transferable, but it must stay with the ownership of this parcel for which its use is approved (Final Plat application FP2021-03);
2. The Property Applicant/Owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements. The Applicant/Owner shall comply with height requirements by limiting cargo container stacking to not exceed the maximum of 5 (five) cargo containers. This condition shall be continually met for the duration of the conditional use permit.
3. The Property shall be developed in accordance with the Final Site Plan application FS2021-05 and any stipulations, to be approved by the Planning Commission, prior to commencement of the cargo container storage use.
4. Landscaping material shall be continuously maintained and replaced when dead.
5. No other outside storage of equipment or materials shall be allowed on the Property.

6. Any future phases or additional areas used for cargo container maintenance and repair uses shall not commence until a new, revised Site Plan is submitted and approved by the City for that phase, including photometric and landscaping plans.
7. This Conditional Use Permit shall be valid for 10 (ten) years from date of approval by the City of Edgerton Governing Body.

WHEREAS, Due to ongoing conversations regarding the pre-tripping and stormwater areas, City Staff has recommended an additional stipulation be added as follows:

8. As part of the Conditional Use Permit, the owner and operator of the facility are required to enter into and remain in compliance with a Significant Industrial User Agreement. This Significant Industrial User Agreement must be executed prior to the issuance of a building permit.

WHEREAS, the City Governing Body, after reviewing the Conditional Use Permit and considering the criteria set forth in Article 7 of the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved upon the terms described above.

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

Section 1. The proposed Conditional Use Permit for a cargo container storage, repair or maintenance facility is hereby approved for the property located at 31220 W 187th Street, Edgerton, Kansas.

Section 2. The Conditional Use Permit approved by this Ordinance is expressly conditioned on the Applicant's/Owner's strict compliance with the eight (8) Conditions set forth above, which were recommended by the Edgerton Planning Commission City Staff and approved by the City of Edgerton City Council.

Section 3. The validity of this Conditional Use Permit is conditioned upon the strict compliance by the Applicant/Owner with the provisions contained herein as well as strict compliance with the City of Edgerton Zoning Regulations. Should Applicant/Owner fail to comply with any term or provision thereof and should such failure continue following written notice from City to Applicant/Owner specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, Applicant/Owner will be notified that this Conditional Use Permit is revoked, and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only occur through action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Applicant/Owner agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

Section 4. This Ordinance shall take effect and be enforced from and after its publication once in the official city newspaper. All Zoning and Regulations of the City of Edgerton, Kansas affecting the use of the Property heretofore described which are inconsistent with this Ordinance are hereby

made inapplicable to said Property until the Conditional Use Permit is vacated or is declared null and void.

PASSED by the Governing Body of the City of Edgerton, Kansas and approved by the Mayor on the 08 day of September, 2022.

CITY OF EDGERTON, KANSAS

/s/

DONALD ROBERTS, Mayor

ATTEST:

/s/

CHRISTOPHER CLINTON, Deputy City Clerk

APPROVED AS TO FORM:

/s/

LEE W. HENDRICKS, City Attorney