

**his is a business meeting of the governing body for the City of Herington. There is no implied or expressed right for persons outside the governing body to speak or voice their opinion unless specifically recognized by the chair.**

**Regular Meeting  
March 1, 2022  
6:00 p.m.**

1. Pledge of Allegiance
2. Call to Order
3. Consider Minutes of the Regular City Commission Meeting on February 15, 2022  
Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares
4. Public Forum
5. Additional Agenda Items
6. Approval of Agenda  
Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares
7. Planning Commission Update
8. Discuss and Action on Revisions to the Planning Commission By-Laws  
Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares
9. Police Update
10. Fire Update
11. Neighborhood Enforcement Update
12. Update on Herington Housing Authority
13. Discussion on 2021 Bridge Inspection Report

14. Discuss and Action on Ordinance 1859 Establishing a Licensure Requirement for Anyone Performing Roofing Construction and Related Services in the City of Herington, Kansas

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares

15. Discuss and Action on CVB Application for Jay Bhakta term to expire 3/31/2024

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares

16. Discuss and Action on Revisions to the Neighborhood Revitalization Plan Interlocal Agreement

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares

17. Discuss and Action on Ordinance 1860 Regulating the Herington City Electrical System and Specifically Private Street Lights

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares

18. Discuss and Action on the Purchase of a Pad Mount Transformer for \$12,859

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,

19. Discuss and Action on Using \$24,160 APRA Funds for the Hope Water Line Project with Larson Construction

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Bell, Commissioner Urbanek,  
Commissioner Donahue, Mayor Gares

20. Executive Session – I move that the Herington City Commission recess into Executive Session, pursuant to the: consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) to discuss potential litigation, to include the following persons:

- o Governing Body
- o City Manager
- o City Attorney
- o \_\_\_\_\_
- o \_\_\_\_\_

With the open meeting to resume in the City Commission Chamber at \_\_\_\_\_.

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Gares, Commissioner Urbanek

21. Executive Session – I move that the Herington City Commission recess into Executive Session, pursuant to the: consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) to discuss contract negotiations, to include the following persons:

- Governing Body
- City Manager
- City Attorney
- \_\_\_\_\_
- \_\_\_\_\_

With the open meeting to resume in the City Commission Chamber at \_\_\_\_\_.

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Gares, Commissioner Urbanek

22. City Manager Comments

23. Commissioner Comments

24. Adjourn

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Gares, Commissioner Urbanek

**To join the City Commission meetings from your computer, tablet, or smartphone, go to**  
<https://www.youtube.com/channel/UCbvSBw6l4w85XQHsX0S1BXg> Public Forum Comments can be  
dropped in the deposit box or emailed to [cityoffice@cityofherington.com](mailto:cityoffice@cityofherington.com)

**Regular Meeting**  
**February 15, 2022**  
**6:00 p.m.**

The Board of City Commissioners of the City of Herington, Kansas met at City Hall at 5:30 p.m. on the above date – the following being present: Mayor Eric Gares, Commissioner Robbin Bell, Commissioner Debi Urbanek, and Commissioner Ben Castleberry. Absent was Commissioner Vance Donahue. Also in attendance were City Manager Branden Dross, City Attorney Brad Jantz, City Clerk Megan Lawrenz, DJ Neuberger, Carl Urbanek, and Larry Mann.

The meeting opened with the Pledge of Allegiance.

Mayor Gares called the meeting to order. Commissioner Bell made a motion to approve the minutes from the regular commission meeting February 1, 2022, seconded by Commissioner Urbanek. Motion carried 4-0.

Public Forum – None.

Additional Agenda Items – Move item 11 Executive Session to item 10. Move item 11 Discuss and Action on Ordinance 1859 Code of Ethics to item 11a. Add item 11 – Discussion on governing body performance.

Commissioner Bell made a motion to approve the agenda with the revisions, seconded by Commissioner Gares. Motion carried 4-0.

KMEA Board Appointment – Commissioner Urbanek made a motion to appoint Branden Dross to the KMEA Board of Directors, term to expire 4/30/2024, seconded by Commissioner Bell. Motion carried 4-0.

Trapp Street/Business US 56 CCLIP Project – City Manager Branden Dross updated the commissioners that Dickinson County is not willing to agree to take responsibility of the road due to the high cost of maintaining a road so far way from their location. Branden will work on a shared responsibility agreement.

Lake Master Plan – City Manager Branden Dross told the commissioners that the next meeting for the Lake Master Plan will be March 1<sup>st</sup>, from 4:30 to 5:30 down at the community building and will be a formal presentation from Confluence.

Executive Session – Mayor Gares made a motion that the City of Herington Commission recess into executive session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) in order to discuss potential litigation, to include the governing body, city manager and city attorney. With the open meeting to resume at 6:48pm, seconded by Commissioner Bell. Motion carried 4-0. The regular meeting resumed with no action taken.

Discussion on Governing Body Performance – Tabled until all Commissioners can be present.

Ordinance 1859 Code of Ethics – Ordinance 1859 Code of Ethics did not pass. Commissioners requested a more detailed and specific code.

Executive Session – Mayor Gares made a motion that the City of Herington Commission recess into executive session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) in order to discuss potential litigation, to include the governing body, city manager and city attorney. With the open meeting to resume at 7:00pm, seconded by Commissioner Bell. Motion carried 4-0. The regular meeting resumed with no action taken.

City Manager Comments – Will bring three Hope water line bids to the next commission meeting. Will be having a discussion about another skid loader soon. Working on the possibly getting an electric vehicle charging station in Herington. Should have the pool engineering report for the pool house next week. Branden has received some numbers back about refinancing our bonds.

Commissioner Bell – Mentioned the possibility of allowing kayaking on Father Padilla Pond, currently illegal. Wondered if we are running the street sweeper too much. Wants to clear up confusion on roof repair permitting process.

Commissioner Urbanek – Reminded staff work to work on the IBC community meeting to establish exceptions for the codes.

Commissioner Castleberry – Reminded the community about the wrestling event on Friday.

Mayor Gares – Asked if the vacant building ordinance letters have been mailed out. Mentioned looking at refinancing city dept and looking into investment opportunities. Asked about the status of the bridge at Father Padilla Park. Wanted staff to be aware that the retaining wall between 7<sup>th</sup> and 9<sup>th</sup> has fallen over.

Adjourn – Commissioner Urbanek made a motion to adjourn, seconded by Commissioner Castleberry. Motion carried 5-0.

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Megan Lawrenz, City Clerk

BYLAWS  
of the  
CITY OF HERINGTON PLANNING COMMISSION

ARTICLE I – CREATION, MEMBERSHIP, AUTHORITY AND DUTIES

**Section 1. Creation.** The City of Herington Planning Commission hereinafter referred to as the “Commission,” was established by Ordinance 1109, which was revised by Ordinance 1834

**Section 2. Membership.** The members of the Commission are appointed by the Mayor with the consent of the Commission during regularly scheduled business meetings. Such members take office at the next regular meeting of the Commission following such appointment. Thereafter, all members shall be appointed to terms of three years and which shall consist of nine electors of which seven members shall be residents of the city and two members shall reside outside the city but within three miles of the corporate limits of the city. Vacancies are filled by appointment for the unexpired term.

**Section 3. Disqualification.** Regular attendance is an important responsibility of membership. Maintaining a quorum for voting purposes is especially important. A quorum shall consist of five members of the Commission to start a meeting. Any member that absences himself or herself for more than three consecutive regular meetings or misses a total of one-half of the meetings during a calendar year for reasons not considered justifiable by the Commission shall be notified that the Commission will recommend to the Governing Body that his or her membership be declared vacated and a replacement appointment be made.

**Section 4. Conflicts of Interest.** Members of the Commission shall be aware at all times of their responsibility to the citizenry of the City of Herington and the surrounding subdivision territory and shall refrain from any recommendation or action that would benefit individuals or special interest groups rather than serve the best interests of their entire community. In furtherance of this responsibility, members shall refrain from recommending or acting on any matter before the Commission in which they have, either directly or indirectly, any financial interest or use their influence or position to show favoritism that could lead to the development of a clientele at a later date.

**Section 5. Authority.** The Commission is vested with the responsibilities of a planning commission as contained in the State Planning and Zoning Statutes, i.e., K.S.A. 12-741, et seq., as amended, and 12-736.

**Section 6. Duties.** As provided for by the statutes referred to in Section 5, the duties of the Commission shall be:

1. To make or cause to be made, adopted, and maintained an official Comprehensive Development Plan for the coordinated development of the City as deemed appropriate, subject to the approval of their Governing Body by ordinance. (K.S.A. 12-747);
2. To annually review or reconsider the Comprehensive Plan at least once a year at the March meeting to determine if the Plan or any portion thereof has become obsolete and to report such status to the Governing Body or propose remedial amendments, extensions, or additions to the plan (K.S.A. 12-747 [d]);
3. To determine the conformance to the Comprehensive Plan of public improvements, facilities or utilities of a type embraced within the recommendations of the Plan which are proposed for construction or authorization and to report upon such conformance or nonconformance within 60 days to the Governing Body unless conformance is otherwise determined by reviewing the member’s capital improvement program (K.S.A. 12-748);

4. To prepare, adopt and maintain Zoning Regulations for the City; to recommend the approval of such regulations to their Governing Body, and to hold hearings and make recommendations on all amendments thereto and zoning applications (K.S.A. 12-753 through 12-759 and 12-763);
5. To prepare, adopt and maintain Subdivision Regulations for the City; to recommend the approval of such regulations by the Governing Body; and to process and approve plats and to transmit them to their Governing Body for the acceptance of dedications thereon (K.S.A. 12-749, 751(a), 752 and 764);
6. To concurrently serve as the Board of Zoning Appeals to hear and decide appeals from determinations of the Zoning Administrator, variances and exceptions as required by the Zoning Regulations (K.S.A. 12-759);
7. To submit to the Governing Body on or before June first of each year a proposed budget for the ensuing year to carry out the Commission's planning program (K.S.A. 12-746);
8. To prepare and approve plans for designated areas and special project areas;
9. To maintain planning reference files of plans, reports, maps, ordinances, regulations and policies accessible to officials, developers and citizens;
10. To maintain cooperation and coordination with township trustees, other city governing bodies, other planning commissions, school districts, the Board of County Commissioners and with such other county, regional and state planning entities as may be deemed appropriate; and
11. To hold hearings, provide plans for and/or make recommendations on such other matters including annexations and vacations as may be periodically assigned by the Governing Body.

**Section 7. Compensation.** Members of the Commission shall serve without compensation for their services; however, the members may receive reimbursement for their authorized out-of-pocket expenses including mileage when related to the Commission's activities as the Governing Body by policy may deem desirable.

## **ARTICLE II -- OFFICERS, ELECTIONS, AND DUTIES**

**Section 1. Officers.** The officers of the Commission shall consist of a Chairperson, Vice-Chairperson and The Chairperson and Vice-Chairperson shall be members of the Commission; however, the Secretary may or may not be a member of the Commission. (K.S.A. 12-745)

**Section 2. Elections.** At the regular Commission meeting in January of each year, the officers shall be nominated and those persons receiving the highest number of votes shall be deemed elected. Officers shall take office following the meeting and serve for one year or until their successor has been elected. Officers may serve for more than one term.

**Section 3. Duties.** The Chairperson shall preside at all meetings of the Commission. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, The Chairperson shall sign all minutes and other official papers and documents to indicate that they have been approved by the Commission. The Chairperson shall represent the Commission at all meetings with other groups unless another member is designated to perform that function. The Chairperson shall also be responsible to oversee the preparation and distribution of agendas for each Commission meeting.

The Vice-Chairperson shall act in the manner and capacity of the Chairperson in the absence of the Chairperson.

The City Clerk shall perform the following duties:

1. To prepare the minutes of each Commission meeting and submit them to the Commission for approval;
2. To maintain an official record book of the minutes as approved and signed by the Chairperson and the Secretary and to provide the City Liaison Representative and City Clerk with copies on a continuing basis;
3. To attest to ordinances and certificates adopting the Comprehensive Plan and amendments thereto and to maintain an official file of Comprehensive Plan documents and accompanying adoption materials and ordinances;
4. To distribute to each Commission member all current materials relating to the Comprehensive Plan and Zoning and Subdivision Regulations and to distribute three sets of Zoning and Subdivision Regulations, including amendments thereto, to the City Clerk as the official copies; and
5. To prepare and distribute agendas for each Commission meeting under the direction of the Chairperson. (See Article III, Section 7 on Agendas.)

### **ARTICLE III – MEETINGS**

**Section 1. Regular Meetings.** When a regular meeting of the Commission is held, it shall be on the fourth Tuesday of the month. When the date of regular meeting conflicts with a legal holiday, the Commission may designate the date for the next regular meeting unless such meeting dates have otherwise been adopted as a schedule for the year. Regular meetings may be canceled with advance notice as needed. All meetings shall be held at the Herington City Hall 17 N Broadway Herington, Kansas at 12pm. unless the case is called elsewhere; provided, however, that the Commission may vote to adopt another hour, date, or place of the meeting. Any such change shall be given wide publicity for the convenience of persons having business before the Commission.

**Section 2. Special Meetings.** Special meetings may be called by the Chairperson or in the Chairperson's absence by the Vice-Chairperson or upon written request of any three members of the Commission. When a special meeting is called, notice as to date, time, place, and purpose for the meeting shall be given by the Chairperson at least 24 hours before the meeting date by mail, email, hand delivered notice or telephone. The announcement of a special meeting at a regular meeting shall constitute notice to those persons present. Commission members not present and the Governing Body shall be notified by the Chairperson including all persons designated to receive agendas on a regular basis. (See Article III, Section 7 on Agendas.)

No agenda items other than those stated in the notice shall be considered at a special meeting.

**Section 3. Adjourned Meetings.** If the business before the Commission is not completed, the Commission by motion may adjourn the meeting or a specific agenda item to a specified date, time and place until the matters on the original agenda or the specified items are acted upon. When such a motion is made known to those persons in attendance, no further notice need be given.

**Section 4. Open Meetings and Closed Sessions.** Having determined that at least a quorum is present, all actions of the Commission shall be open to the public and to attendance by representatives of the news media, except that closed sessions if deemed necessary may be held to deliberate a rezoning application including a special use wherein such action is considered to be a quasi-judicial function. The motion to recess for a closed session shall be placed in the minutes and include a statement of (a) the justification for closing the meeting; (b) the subjects to be discussed during the closed session; and (c) the time and place at which the open meeting will resume, all according to K.S.A. 75-4319 of the Kansas Open Meetings Act. In such closed sessions, no binding vote or action may be taken.



**Section 5. Workshop Sessions.** The Commission may meet at a regular or special meeting in a workshop session for a general discussion on one or more topics or for a training session; however, the Kansas Open Meetings Act applies and no binding action may be taken. While regular minutes are not necessary, a record of attendance and a brief summary of the subject(s) discussed should be made.

**Section 6. Quorum.** A quorum shall consist of a majority of the total membership which is designated by the Ordinance establishing the Commission whether any vacancies exist or not. Thus, a quorum of five members must be present to conduct any business. In the absence of a quorum at any meeting or at the impending loss of a quorum during a meeting, the presiding officer after consultation with those members present may adjourn the meeting to a specified date, time, and place or similarly table an agenda item. When such information is made known to those persons in attendance, no further notice needs to be given.

Members abstaining from voting may be counted when determining whether a quorum is present; however, members disqualified from voting may not be counted. (See Article IV, Sections 10 and 11 on Parliamentary Procedure.)

**Section 7. Agendas.** The Chairperson shall oversee the preparation of an agenda of all matters to come before the meeting and to have it mailed or delivered to the Commission members no later than five calendar days preceding the next regular meeting. Copies of the agenda shall also be furnished (a) to the City Manager, City Clerk, Zoning Administrator, and any member of the public upon request; (b) to each party having an item on the agenda; and (c) to any person requesting an agenda or a notice of the date, time and place of a regular or special meeting of the Commission under K.S.A. 75-4318 (b) and (d) of the Kansas Open Meetings Act. Any member of the Commission may place items on the agenda by advising the Chairperson no later than noon on the sixth day preceding the next regular meeting. If the number of applications received for zoning or platting would create an unduly long Commission meeting, the Chairperson may carry over such items on a first-come, first-serve basis to the next Commission meeting unless already advertised for public hearing. (See Article IV, Section 1 on the Order of Business.)

**Section 8. Recording of Meetings.** The City Clerk shall keep complete records of all proceedings of the Commission. The City Clerk shall also prepare and maintain permanent minutes to be kept in a record book available for public view. Permanent copies of such minutes shall not be removed from the Courthouse except by order of a court. Copies of the minutes shall be furnished to all persons or bodies making such a request to the Secretary. The City Clerk may make such changes as are necessary to recover the cost of making such copies.

#### **ARTICLE IV -- CONDUCT OF MEETINGS**

**Section 1. Order of Business.** The order of business shall be as follows unless otherwise decided by the Commission: (a) Call to Order; (b) Approval of Minutes (c) Public Forums (d) Additional Agenda Items: (e) Approval of Agenda (f) Staff and Committee Updates, as needed; (g) Items specific to the meeting; (h) Commissioner Updates;; and (i) Adjournment. If a zoning variance is a part of the meeting, a new meeting will be opened and adjourned after the zoning variance is heard

Off-agenda items may be considered at the discretion of the Commission when such items are added to the agenda at the beginning of the meeting by motion. Approval of such consideration shall be based on a finding that a review or presentation would be in the best interest of the general public and not contrary to the provisions of public notice.

**Section 2. Appearance before the Commission.** Applicants and petitioners or their representatives and members of the community at large or individuals or their representatives who think that they will be affected by any action of the Commission may appear to present views and statements either for or against agenda items. Personal appearance before the Commission is recommended; however, written communication may be presented instead. The Commission may at their discretion defer items coming before the Commission if the applicant or petitioner is not present and has not submitted written communication.

**Section 3. Actions.** In all formal matters, the Commission shall act by motion unless an ordinance is required by law or governmental regulations. All notices required by law to be given by publication including those for public hearings shall be published in the respective officially designated city newspaper. Substantive motions before the Commission shall be restated by the Secretary before a vote is taken. Every motion on a substantive matter shall set forth reasons. Action shall be taken on each agenda item presented at the conclusion of discussion of that item.

**Section 4. Voting.** When a quorum is declared present, all actions of the Commission shall be taken by a majority vote of the total membership of the Commission (K.S.A. 12-745), except that only a majority vote of the members present and voting at the hearing shall be required to make recommendations on amendments to the zoning regulations, applications for rezoning amendments and special uses (K.S.A. 12-757 [c]). Voting shall be by individual voice ballot of “Aye” or “Nay” on each item and shall be tallied and the results determined by the Chairperson. For simple administrative functions, a vote of “Aye” from all members in unison would be deemed appropriate. In the event of a tie or divided vote, see Article IV, Sections 8 and 9 on Parliamentary Procedure.

**Section 5. Parliamentary Procedure.** All meetings of the Commission shall be conducted in accordance with the current edition of Robert’s Rules of Order Newly Revised, except insofar as modified by these Bylaws and procedures adopted by the Commission:

1. A second shall be required for all motions.
2. The presiding officer shall have the right to make motions and to second motions without vacating the chair.
3. Motions to “receive and file” shall not be debatable.
4. Substitute motions may be made for prime motions; provided, that substitute motions are voted on before the prime motion. Substitute motions shall be made only once and shall be debatable only if the prime motion was debatable. A substitute motion may be made without the consent of the maker of the prime motion.
5. Motions to reconsider any item shall be made by one of the members voting in favor of the item to be reconsidered. Motions to reconsider shall not be allowed in cases where the item proposed for reconsideration has previously been forwarded to and acted on by a Governing Body.
6. The Commission may suspend the rules provided that: (a) the motion to suspend the rules takes precedence over other prime motions; (b) the motion shall state the specific purpose and rule to be suspended; (c) no such motion shall be considered approved unless the length of time such suspension will be in effect has been specified; (d) the motion shall be approved by a majority of the quorum; and (e) no suspension of the rules shall be considered permanent.
7. Participation from the floor (audience) on any matter may be limited as to time at the discretion of the presiding officer when in his or her opinion such participation is repetitious; contains statements derogatory to the character, integrity or actions of the Commission or any member without support of such allegations; or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not reasonably permit further participation. Those persons speaking on a given item from the

- floor should first be recognized and then address their remarks to the presiding officer. Each member of the Commission may speak to an issue as many times as may be desired.
8. The presiding officer shall have the right to vote. If the officer chooses not to vote, he or she shall automatically be considered to have abstained from voting. (See Article IV, Section 10 below on Parliamentary Procedure.)
  9. When a divided vote occurs, the presiding officer shall call for a roll-call vote. The Secretary shall enter into the minutes the result by name of all roll-call votes.
  10. Any member abstaining or remaining silent on a vote shall be considered to have voted with the majority vote of those who voted; provided that, such member does not have a conflict of interest or bias in the matter that would otherwise disqualify him or her from voting. In the event of an equally divided vote, the vote of a member abstaining or remaining silent is not to be counted. Members who do abstain or remain silent on a vote are still counted as present in determining a quorum.
  11. The presiding officer may grant permission for any member to abstain on any particular vote when the member declares a conflict of interest or bias and requests the presiding officer to approve an abstention from voting. When such an abstention is granted, the requesting member is disqualified from voting and shall disassociate himself or herself from the assembled members and not engage in discussion until the particular item is acted upon. Members shall automatically be granted such an abstention when they or their spouse own property in the area of notification for a zoning application. Such abstention shall not prevent them from signing a protest petition or appearing before the Commission to speak on the zoning application. When a member is disqualified from voting, they cannot be counted as present for the quorum.
  12. To be eligible to vote on the first date of a public hearing, a member must have been present to hear the entire presentation unless it is appropriate and timely for the Chairperson or another person(s) present to inform such a member sufficiently to apprise him or her of the hearing proceedings to that point in time. If a public hearing or resulting deliberation of the Planning Commission is continued until another date, a member who was not present for all or for only a portion of the prior hearing and has not otherwise been sufficiently informed of the proceedings may abstain or may vote on the pending matter; provided, that the following provisions have been met:
    - (a) The summary of the hearing has been read;
    - (b) Applications and any other materials including drawings submitted or presented by the applicant have been reviewed; and
    - (c) The member acknowledges for the record that he or she has complied with the above provisions.
  13. Subject to these provisions, the presiding officer shall decide all points of order and procedure, unless overruled by a majority of the total membership of the Commission.

## **ARTICLE V - - HEARING PROCEDURES.**

**Section 1. Intent and Purpose.** It is the intent of the Commission to hold fair and impartial hearings on all matters requiring a public hearing at which hearings on all matters requiring a public hearing at which adequate legal notice has been given to all concerned parties. The purpose of such hearing is to make it clear that decisions are based on the relevant evidence presented and that well-organized hearings and procedures will lead to legally defensible decisions which are not arbitrary, discriminatory, or unreasonable. To ensure fairness, the hearing room should be able to accommodate all persons wishing to attend and to enable them to properly hear the proceeding.

Ex parte contacts, i.e., those contacts in the form of verbal or written communications outside of a hearing should be discouraged. Commission members should (a) come to a hearing favoring neither side; (b)

have no personal interest in the outcome other than that shared by the Community-at-large; (c) treat both sides alike; and (d) base their decision solely on the facts presented as evidence before the Commission. Any facts determined by the personal investigation should be reported to the Commission at the hearing as ex parte information.

**Section 2. Order of Proceedings for Zoning Hearings.** Applications for rezoning amendments and special uses that are site-specific land-use decisions are considered quasi-judicial proceedings. The latter includes the procedural due process elements of notice and opportunity to be heard in a fair, open and impartial hearing. At the end of the hearing, the Commission shall adopt a written report or place in the minutes a statement summarizing the evidence and stating the factors that it considered in arriving at its decision. The following order of proceedings shall be used for all such rezoning and special use hearings:

1. Determination that a quorum is present.
2. Determination that proper notice has been given.
3. Report of ex parte contacts with Commission members.
4. Introduction of applicant by staff.
5. Presentation by applicant.
6. Commission and staff question applicant.
7. Public comments on proposed application.
8. Receipt of written communications or petitions.
9. Applicant presents closing comments.
10. Public portion of the hearing closed by the presiding officer.
11. Planning Commission deliberations.
12. Review findings and factors on which recommendation is based.
13. Motion to recommend to the Governing body the approval, disapproval or modification of the application or to table the agenda item to a specific date, time and place.

While no further public comments will be received after the hearing is closed, the Commission may question any participant at any time during the proceedings. At its discretion, the Commission may instruct the Secretary to tape record the hearing(s).

**Section 3. Legislative Hearings.** Hearings for the adoption of comprehensive plans and zoning and subdivision regulations and amendments thereto are considered legislative in nature. The order of proceedings for hearings in Article V, Section 2 above may be modified for a legislative hearing as to the role of the applicant and the findings and factors on which a decision is based. In any event, the Commission's recommendation to the Governing Body shall be in writing accompanied by a written summary of the hearing thereon.

## **ARTICLE VI - - COMMITTEES AND LIAISON REPRESENTATIVES**

**Section 1. Committees and Liaison Representatives.** The Chairperson, with the consent of the Commission, may appoint standing and ad hoc committees and liaison representatives as may be needed to assist in the business of the Commission. The membership of such committee(s) and liaison representatives may consist of all Commission members or part Commission members or be all non-commission members. All such committees and representatives shall be provided a formal charge and shall report to the Commission their findings and recommendations unless otherwise directed.

Standing committees and regular liaison representatives are as follows:

1. Subdivision Committee - - A Subdivision Committee consisting of three Commission members shall be appointed. All meetings of the committee shall be conducted as open meetings. The Subdivision Administrator and other City staff members may serve as nonvoting ex officio members. The committee may request the assistance of other officials and technicians depending upon the nature of the plat being considered.
2. Government Liaison Representation - - Whenever an agenda item is to be forwarded to a Governing Body and it is not deemed necessary or possible for the Chairperson to appear, the Chairperson shall designate a person to appear and to assist in a presentation as necessary on the item. When such representative is present, he or she may also be available to be informed of or report upon activities affecting the Planning Commission. A brief report on the representative's attendance at the Governing Body meeting shall be made at the next Commission meeting.

All standing committees and liaison representatives shall be appointed at the next regular Commission meeting following the election of officers. They shall take office following the meeting of their appointment and serve for one year or until their successor has been appointed. Such committees may elect officers unless otherwise designated by the Chairperson and establish such rules of procedure as they deem desirable.

#### **ARTICLE VII –AMENDMENTS TO BYLAWS**

**Section 1. Amendments.** The Commission may, by a two-thirds majority vote of the total membership thereof, amend these Bylaws or any provisions or sections thereof, at any time when the same is not in conflict or contravention of any of the laws of the State of Kansas or City. Notices of the proposed amendments shall be mailed or delivered by the Secretary to the Commission members and the City Liaison Representative not less than five calendar days prior to the meeting at which such amendments are to be considered. A current copy of the Bylaws adopted by the Commission and signed shall be filed by the Secretary with the City Clerk including any amendments thereto.

**Section 2. Adopted.** The above and foregoing Bylaws are hereby adopted as the Bylaws of the City of Herington Planning Commission subject to the approval of the Governing Body by a majority vote.

DATED this 22nd day of February 2022.

  
\_\_\_\_\_  
Marcus Hawkes, Chairperson

ATTEST:

  
\_\_\_\_\_  
Janet Wade, Vice-Chairperson

APPROVED by the Governing Body of the City of Herington, Kansas on this 1<sup>st</sup> day of June, 2021.

\_\_\_\_\_  
Eric Gares, Mayor of Herington

ATTEST:

\_\_\_\_\_  
Megan Lawrenz, City Clerk

DRAFT

DRAFT

**CITY OF HERINGTON BRIDGES  
COMMENTS AND RECOMMENDATIONS  
2021**

Sort #	Street Address		County Number	State Number	Structure Description	Condition	Scour	Comments and Recommendations
1	218 S	8th Street	HER2	HER2	3-11' RC Slab Spans	Poor	8	Approach has settled 3" at NE to 0" near center. Severe spalling deterioration at west side. East end north piers 2 and 3 deteriorated with efflorescence and section loss. Deck severe cracks in sides and under sidewalks right and left with efflorescence and leakage - monitor 12 months. No plans in file. Posting reduced to 10 ton. Schedule replacement. Repair sidewalk settlement.
2	104 E	A Street	HER9	HER9	28' Steel Beam	Good/ Satis	5	Provide smooth transitioning at approaches. Repair sidewalk settlement, most severe SE (photos).
3	607 N	Broadway Street	HER10	HER10	Concrete Filled Spandrel Arch	Good	5	Structure replaced - Bridge 51230021000HER6, new bridge assigned number 5123002100HER10 constructed 2014. Very good condition. SW outlet pipe with end section erosion, more rock needed (photo).
4	204 N	D Street	HER7	HER7	3-10'x6' RCB	Good	8	No plans or analysis in file. Repair sidewalk settlement SE and NE. Monitor crack in barrier rail SE (photos).
5	324 W	Main Street	HER1	HER1	PS Girder	Good	5	Analysis and SIA sheet is updated to reflect new bridge railroad/stream overpass. Ref KDOT 21K-8304.01. Repair erosion/undermining NE and NW corners sidewalk. Monitor cracking with settlement SE corner barrier rail.
6	2 E	Vine Street	HER4	HER4	33' Steel Beam	Fair	5	Posted 9 ton. Exposed rebar/large spall bottom concrete north bay at NE corner. Concrete SW slope protection cracked/settled. Concrete curb spall SE with sidewalk settlement (monitor).
7	326 W	Walnut Street	HER8	HER8	2-Stone Arch 1-Concrete Slab	Fair	5	Post bridge per SIA 12-18-30 ton. No analysis or plans in file. Remove drift/debris South side. Clean and grout underdeck and pier on any exposed rebar. Repair south sidewalk and curblines (photo).



## Sufficiency Rating Results

Print

Structure ID	Inspection Date		Struct Rating	Deck Geom	Under Clrnc	SR Prefix	SR Rating	SD/FO Status	HRRB Status
00000000210980	3/24/2021	Previous Ratings:	4	9	2		71.0		Not Eligible
		Calculated Ratings:	4	9	2		71.0		Not Eligible
400100210002001	3/24/2021	Previous Ratings:	6	6	N		96.8		Not Eligible
		Calculated Ratings:	6	6	N		96.8		Not Eligible
400100210006002	3/24/2021	Previous Ratings:	7	5	N		95.4		Not Eligible
		Calculated Ratings:	7	5	N		95.4		Not Eligible
400100210008003	3/24/2021	Previous Ratings:	7	6	N		97.7		Not Eligible
		Calculated Ratings:	7	6	N		97.7		Not Eligible
51230021000HER1	4/7/2021	Previous Ratings:	5	4	9		80.3		Not Eligible
		Calculated Ratings:	5	4	9		80.3		Not Eligible
51230021000HER2	4/7/2021	Previous Ratings:	4	7	N		48.8	SD	Replacement
		Calculated Ratings:	4	7	N		48.8	SD	Replacement
51230021000HER4	4/7/2021	Previous Ratings:	4	5	N		40.8	SD	Replacement
		Calculated Ratings:	4	5	N		40.8	SD	Replacement
51230021000HER7	4/7/2021	Previous Ratings:	7	6	N		99.9		Not Eligible
		Calculated Ratings:	7	6	N		99.9		Not Eligible
51230021000HER8	4/7/2021	Previous Ratings:	4	7	N		66.8	SD	Rehabilitation
		Calculated Ratings:	4	7	N		66.8	SD	Rehabilitation
51230021000HER9	4/7/2021	Previous Ratings:	5	5	N		74.9		Not Eligible
		Calculated Ratings:	5	5	N		74.9		Not Eligible
51230021000HER10	4/7/2021	Previous Ratings:	8	9	N		96.9		Not Eligible
		Calculated Ratings:	8	9	N		96.9		Not Eligible

Structures requested: 11

Structures in the ratings list: 11

## **INTERLOCAL AGREEMENT CITY OF HERINGTON - NEIGHBORHOOD REVITALIZATION TAX REBATE PROGRAM**

THIS INTERLOCAL AGREEMENT (hereinafter referred to as “Agreement”) is entered into this 1<sup>st</sup> day of March, 2022, by and between the City of Herington, Kansas, a duly authorized municipal corporation hereinafter referred to as “City”, the Dickinson County Board of Commissioners (the “County”), and the Board of Education of the Unified School District # 487 (“USD 487”).

### **RECITALS**

**WHEREAS**, K.S.A. 12-2904 and 12-17,119 allows public agencies to enter into Interlocal Agreements to jointly perform certain functions, including economic development and neighborhood revitalization; and

**WHEREAS**, all parties are, pursuant to K.S.A. 12-2903, public agencies having the statutory authority to enter into Interlocal Agreements; and

**WHEREAS**, it is the desire and intent of the parties to enter into an Interlocal Agreement regarding neighborhood revitalization in the City of Herington, Kansas, under the Neighborhood Revitalization Program, pursuant to K.S.A. 12-17,114 et seq.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:**

1. Neighborhood Revitalization Plan. On December 21st, 2021, by adoption of Resolution No.947 the City of Herington, Kansas, approved the City of Herington Neighborhood Revitalization Plan, hereinafter referred to as the “Plan”, as authorized by K.S.A. 12-17,114 et seq. A copy of the “Plan” is attached to this agreement and incorporated into this agreement and may be viewed at the office of the City Clerk.
2. Purpose. That new construction and rehabilitation of structures, in the area defined in the “Plan”, would promote the public health, safety and welfare of citizens in Herington; would improve growth of the city; and would promote the expansion and renovation of existing businesses, draw new businesses to the community, develop vacant sites, reserve residential homes and promote in-fill residential construction.
3. Tax Incentives. Property tax rebates shall be offered by the parties to encourage participation in the plan. The City of Herington shall administer the “Plan”.

4. Rebating of Taxes. The parties further agree that the County shall administer the neighborhood revitalization plan as adopted by each party on behalf of the signatory parties. The County shall create a neighborhood revitalization fund pursuant to K.S.A. 12-17,118 for the purpose of refinancing the redevelopment and to provide rebates. Any increment in property taxes received by the City, the County, and USD 473 resulting from qualified improvements to property pursuant to the neighborhood revitalization plan shall be credited to the County's neighborhood revitalization fund.
5. Eligible Areas. The area eligible for program benefits under the plan shall be identified on a map approved by all parties to this agreement.
6. Expiration. This Interlocal Agreement shall expire December 31, 2031.
7. Duplication. This Interlocal Agreement shall be executed in triplicate form.
8. Termination. The parties may terminate or extend this agreement prior to December 31, 2031, by written, mutual consent. However, eligible rebate applications submitted prior to termination of the program shall be honored. The parties agree that the area described in the plan may be modified to meet the needs of the plan. The parties do not intend to acquire, hold, or dispose of real and/or personal property in this joint or cooperative undertaking.
9. Attorney General Approval. The parties further recognize and acknowledge that this Interlocal Agreement is subject to approval by the Attorney General of the state of Kansas.
10. Entire Agreement. This agreement and any attachments constitute the entire agreement between the parties.

**IN WITNESS WHEREOF**, the parties have caused this Interlocal Agreement to be executed as of the day and year first above written. This agreement shall be effective upon filing with the Dickinson County Register of Deeds and with the Kansas Secretary of State.

**CITY OF HERINGTON, KANSAS**

By: \_\_\_\_\_  
Date Approved: \_\_\_\_\_  
Eric Gares, Mayor

ATTEST:

\_\_\_\_\_  
Megan Lawrenz, City Clerk

**BOARD OF EDUCATION OF THE UNIFIED SCHOOL DISTRICT #487**

DRAFT

By: \_\_\_\_\_  
Date Approved: \_\_\_\_\_  
Mike Wendt, President of the Board

ATTEST:

\_\_\_\_\_  
Robyn Heitfield, Clerk of the Board

**DICKINSON COUNTY, BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Date Approved: \_\_\_\_\_  
Lynn Peterson, Chairman

ATTEST:

\_\_\_\_\_  
Jeanna Livingston, County Clerk

DRAFT

Published in the official newspaper on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

**ORDINANCE NO. 1859**

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO ADD ARTICLE XII, ENTITLED ROOFING LICENSURE TO CHAPTER IV, AND TO INCLUDE SECTIONS 4-1201, 4-1202, 4-1203 AND 4-1204, ESTABLISHING A LICENSURE REQUIREMENT FOR ANYONE PERFORMING ROOFING CONSTRUCTION AND RELATED SERVICES IN THE CITY OF HERINGTON, KANSAS PURSUANT TO THE CODE FOR THE CITY OF HERINGTON, KANSAS CHAPTER VI, ARTICLE XII AND REPEALING ANY OTHER CURRENT ORDINANCES, OR PORTIONS THEREOF, IN CONFLICT HERewith.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS.**

**SECTION 1.** That Chapter IV, of the Code of the City of Herington, Kansas, is hereby amended to add ARTICLE XII, entitled ROOFING LICENSURE, including Sections 4-1201, 4-1202, 4-1203, and 4-1204 to read, in their entirety, to read as follows:

**4-1201 Roofing License Required.** No person shall engage in or work at the business of roofing construction and related services within the City of Herington, Kansas without obtaining a license therefor in accordance with the provisions of this article, provided that this shall not be construed to prohibit persons employed by a licensed general contractor from performing such work under the supervision or at the direction of the employer responsible for such work.

**4-1202 Bond Requirement.** Any person, firm, or corporation engaging or working in the business of roofing construction and related services mechanical installations as regulated under Chapter 4, Article XII of the Code of the City of Herington and performed within the City of Herington, Kansas without first posting with the City Clerk a surety bond in the amount of \$10,000.00. Such surety bond shall be approved by the designated City official overseeing such construction and related services and provide that such person, firm or corporation will faithfully comply with the provisions of state laws and city ordinances related to such roofing construction and related services and that such person, firm or corporation will indemnify and save the city harmless from all costs of damages sustained by persons or property because of the carelessness and negligence of the principal in conducting such roofing construction and related services. Bonds shall be in force at all times and

remain in force and effect for a period of one year after the completion of the work.

**4-1203 Insurance Requirements.** No person shall engage in or work in the business of roofing construction and related services as regulated under Chapter 4, Article XII of the Code of the City of Herington and performed within the City of Herington, Kansas, without first filing with the City Clerk, evidence of a current policy of public liability insurance in the following amounts: Minimum \$100,000.00 bodily injury liability and \$20,000.00 for the loss, destruction or injury of any property. Such policy shall be conditioned or extended to cover and include within its terms all employees and agents of the insured.

**4-1204 Penalty.** Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding \$500.00, or be imprisoned not to exceed 30 days, or be both so fined and imprisoned.

**SECTION 2.** This ordinance, or portions thereof in conflict herewith, are hereby repealed.

**SECTION 3.** This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

**PASSED AND ADOPTED** by the Governing Body of the City of Herington, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**Signed by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2022.**

\_\_\_\_\_  
Eric Gares, Mayor, City of Herington, Kansas

ATTEST:

\_\_\_\_\_  
Megan Lawrenz, City Clerk

SEAL

Published in the official newspaper on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

**ORDINANCE NO. 1860**

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO REPLACE, IN ITS ENTIRETY, CHAPTER VII, ARTICLE I, SECTION 7-114 REGULATING HERINGTON CITY ELECTRICAL SYSTEM AND, SPECIFICALLY, PRIVATE STREET LIGHTS INSTALLED WITHIN THE CITY LIMITS OF THE CITY OF HERINGTON, KANSAS, AS SET OUT IN THE CODE FOR THE CITY OF HERINGTON, KANSAS CHAPTER VII, ARTICLE 1, SECTION 7-114 AND REPEALING ANY OTHER CURRENT ORDINANCES, OR PORTIONS THEREOF, IN CONFLICT HEREWITH.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS.**

**SECTION 1.** That Chapter VII, Article I, Section 7-114 of the Code of the City of Herington, Kansas, is hereby amended, in its entirety, to read as, as follows:

**Sec. 7-114. - Private street lights.** Each and every person, firm or corporation who shall be furnished private lighting services on the city street light system shall be responsible for a periodic charge as reimbursement for the costs of provision of such service. Any person, firm, or corporation who has requested or receives personal benefit from the use of a street or security light placed on or adjacent to the property of such person, firm or corporation shall be liable for a periodic fee imposed by the City of Herington, Kansas. Each and every person, firm shall be assessed a monthly fee of seven dollars (\$7.00) for each light in service for the preceding month. The Governing Body of the City of Herington, Kansas shall, from time to time review the rates imposed herein and provide for adjustment to such rates as necessitated to more accurately match the cost of provision of the lighting service. Such adjustments shall be made by resolution duly adopted by majority vote of the Governing Body.

**SECTION 2.** Other ordinances, or portions thereof in conflict herewith, are hereby repealed.

**SECTION 3.** This ordinance shall take effect and be in force from and after its publication in the official City newspaper.



**PASSED AND ADOPTED** by the Governing Body of the City of Herington,  
Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**Signed by the Mayor** this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Eric Gares, Mayor, City of Herington, Kansas

ATTEST:

\_\_\_\_\_  
Megan Lawrenz, City Clerk

SEAL