

OSAWATOMIE CITY COUNCIL

AGENDA

July 9, 2020

6:30 p.m., Memorial Hall

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Invocation
5. Consent Agenda

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

  - A. July 9th Agenda
  - B. Meeting Minutes – June 25th, 2020
  - C. Pay Application – Hall’s Bobcat Service - \$12,784.91 – Trail
  - D. Pay Application – Tyler Tech - \$9,586.50
6. Comments from the Public

*Citizen participation will be limited to 5 minutes. Stand & be recognized by the Mayor.*
7. Presentations, Proclamations, and Appointments
  - A. Budget Presentation – Chamber of Commerce – Hitomi Lamirande and Kari Bradley
8. Unfinished Business
  - A. Discussion of Ordinance 3783 relating to Executive Order 20-52 of the Governor of Kansas and Resolution R20-07-002 of the Miami County Commission rescinding the Governor’s Executive Order.
9. New Business
  - A. Resolution 800 – Adopting City Council Policy 102 – Expenditure Authorization
  - B. Resolution 801 – Adopting City Council Policy 103 – Funeral Gifts and Memorials
  - C. Resolution 802 – Adopting City Council Policy 104 – Tax Increment Financing Policy
  - D. Resolution 803 – Declaring Osawatomie, Kansas to be an official entrant in the PRIDE Program for the year of 2020
10. Council Report
11. Mayor’s Report
12. City Manager & Staff Report
13. Executive Session
14. Other Discussion/Motions
15. Adjourn

*NEXT REGULAR MEETING – July 23, 2020*

Osawatomie, Kansas. **June 25, 2020.** The Council Meeting was held at Memorial Hall. Mayor L. Mark Govea called the meeting to order at 6:32 p.m. Council members present were LaDuex, Macek, Diehm, Hampson, Dickinson, Walmann, Wright and Caldwell. City Staff present at the meeting were: City Manager Michael Scanlon, City Clerk Tammy Seamands, Assistant to the City Manager Samantha Moon, Wastewater Plant Operator Bruce Hurt and City Attorney Richard Wetzler. Members of the public present were Dustin Brinkerhoff, Jeff Dorsett, Samuel Johnson, Kim Matney, Noah Matney, Garrett Nordstrom, Paul Owings, Elizabeth Dean, Kyle Spielbusch and Pamela Delvalle.

**INVOCATION.** Dustin Brinkerhoff, Victory Baptist Church

**CONSENT AGENDA.** Approval of the June 25<sup>th</sup> Agenda; June 11<sup>th</sup> Council Minutes, and Pay Application – Hall’s Bobcat Service - \$6,076.62. **Motion** made by Hampson, seconded by LaDuex to Approve the consent without the Pay Application – Hall’s Bobcat Service - \$6,076.62. Yeas: All. **Motion** made by LaDuex, seconded by Dickinson to approve the Hall’s Bobcat Service - \$6,076.62, Yeas: All. Hampson abstained due to conflict of interest.

**COMMENTS FROM THE PUBLIC.** – Assistant Pastor Dustin Brinkerhoff stated Victory Baptist Church has begun meeting in person again and they have put safety measures in place. They are not having Sunday School or picking up any children on their bus route but they have been taking food baskets to those families that they usually pick up on the route.

Jeff Dorsett – Sent an email to others on the trail task force to share the positive impact of the trail that Dorsett had observed on June 6<sup>th</sup>. There were several cars from other counties in Kansas and a few cars from out of state using the trail. Palace Hardware will offer bike repair in their store and local restaurants are willing to offer specials to trail riders. Dorsett also would like to see all City employees to familiarize themselves with the trail.

**PUBLIC HEARINGS.** - None

**PRESENTATIONS & PROCLAMATIONS.**

PRESENTATION OF AUDIT – Kyle Spielbusch with Jarred, Gilmore & Phillips, PA presented the annual audit.

NLC SERVICE LINE WARRANTY PROGRAM – was removed from the agenda and rescheduled for July.

BG CONSULTANTS – Sam Johnson and Paul Owings presented improvement priorities that were established during a site visit to the Osawatomie Wastewater Treatment Plant. These improvements are needed to bring the Wastewater Treatment Plant into compliance with environmental standards set by Kansas Health and Environment. The approximate total project cost is \$3.3 Million. BG Consultants are working with Garrett Nordstrom with Governmental Assistance Services to apply for a CDBG grant and to apply for loans under the Kansas State Revolving Loan program. Prior to submitting these applications every applicant for water/sewer must attend a Kansas Interagency Advisory Committee (KIAC). **Motion** made by LaDuex,

seconded by Lawrence to Authorize BG Consultants staff to submit an application for a request to appear before the Kansas Interagency Advisory Committee (KIAC) regarding funding options for the Wastewater Treatment Plant Improvement Project. Yeas: All.

### **UNFINISHED BUSINESS.**

REQUEST FOR BIDS – LEASING OPTIONS FOR BACKHOE – Tammy Seamands presented bids that were received for a lease financing package for a 2020 Case 580 SN Backhoe that was approved for purchase at the May 28, 2020 council meeting. Motion made by LaDuex, seconded by Walmann to accept the request for bid from First Option Bank with a \$250.00 fee and 2.25% financing rate with a 5-year lease term for the lease of the 2020 Case 580 SN Backhoe. Yeas: All.

### **NEW BUSINESS.**

RESOLUTION NO. 797 – NLC SERVICE LINE WARRANTY PROGRAM – was removed from the agenda and rescheduled for July.

RESOLUTION NO. 798 – DIRECTING STAFF TO PROCEED WORKING WITH BG CONSULTANTS ON WASTEWATER TREATMENT FACILITY REPAIRS. **Motion** made by Macek, seconded by LaDuex to approve Resolution No 798 Directing staff to proceed working with BG Consultants, following up on their preliminary engineering report outlining the repairs that need to be made to the Wastewater Treatment Facility (WWTF) so that the City comes into compliance with all required environmental standards.as presented. Yeas: All.

RESOLUTION NO. 799 – ESTABLISHING A PLANNING FRAMEWORK THAT WILL ASSIST THE STAFF AND COMMUNITY AS WE BEGIN TO REDEVELOP – **Motion** made by LaDuex, seconded Caldwell to approve Resolution 799 Establishing a planning framework that will assist the staff and community as we begin the process of reimagining and redeveloping our downtown and surrounding area as presented. Yeas: All.

### **COUNCIL REPORTS.**

Dan Macek ~ asked about issues that were addressed in the audit presentation. The City Manager will respond to them in a memo back to the council regarding how this will be addressed.

Jeff Walmann ~ the trail taskforce was established in 2018 and are close to finishing the duties that were assigned to them. Walmann would like to see the City have a lodging option for trail riders to stay at.

Karen LaDuex ~ Attended the Pride Committee meeting. There were 19 people in attendance with ¼ of those people attending that had not previously been involved in other

committees. Everyone was enthusiastic and are planning on cleaning up trash in the downtown area.

Lawrence Dickinson ~ Welcomed Noah Matney. Noah is a member of the boy scouts.

Cathy Caldwell ~ Will be talking to Ryan Maddox with the Pride Committee regarding community cleanup for houses. Caldwell asked if there has been any resolution on the tall grass on “10 acres”. Linda Crouch is going to meet with Mike Scanlon regarding purchasing “10 acres” which would allow the city to use the property for trails which could qualify for grant money for the purchase.

**MAYOR’S REPORT** ~ Charlie Brand sent a text regarding the Pride committee. They will be meeting and are planning on cleaning up Main Street on July 21<sup>rd</sup> at 6:30 p.m.

### **CITY MANAGER & STAFF REPORTS.**

Mike Scanlon ~ was approached by a farmer asking to purchase 80 acres in the Northland that adjoins to his property. Scanlon asked if the council was interested in selling that property. The general consensus was that council is not interested in selling this property.

Concrete will be poured tomorrow for the sidewalks and the steps will be poured Saturday at city hall. They have cylinders that are the pedestals for the sign at the trail that will mark the zero mile.

Elks have received a grant “Brush to Kindness” that will allow them to work with the city to select three Veterans in the community and to paint their house for them.

Scanlon is working on three grants over the next three weeks which are CDBG, KDOT and MARC. These grants are to find funding to do the planning and groundwork for the downtown corridor and surrounding community and to improve infrastructure. We need to keep the community engaged. He would like council to provide two names of community members to help with this that could spend time over the next three months to work on plans. Scanlon has at least seven projects that the Eagle Scouts could work on.

Tammy Seamands ~ we are promoting a Food Truck Wednesday which would allow one food truck each Wednesday to set up at 5<sup>th</sup> & Main from 11 a.m. to 7 p.m. This promotion is to attract more business to the City and to bring more customers into Osawatomie to shop. We have talked with other businesses and suggested that they also offer specials on Wednesday to increase the foot traffic on Main Street.

**EXECUTIVE SESSION.** None.

### **OTHER DISCUSSION/MOTIONS.**

**Motion** made by LaDuex, seconded by Dickinson to adjourn. Yeas: All. Mayor declared the meeting adjourned at 8:05 p.m.

*/s/ Tammy Seamands*  
Tammy Seamands, City Clerk

**Hall's Bobcat Service**

607 Mulberry Ave.  
Osawatomie, KS 66064

**Invoice**

Date	Invoice #
6/24/2020	4677

*Division of E & H Properties, Inc.*

Bill To
City of Osawatomie 439 Main Street Osawatomie, Ks 66064

**Excavation - Residential & Commercial**  
**Rock Yard - Landscape & Supplies (located 607 Mulberry, Osawatomie)**

Customer Phone
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(913) 755-2146
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*Office Hours: Mon.-Fri. 8-5 Sat. 8-Noon*  
*Office Phone #: 1-913-245-4089*

<u><b>Your Residential or Commercial Contractor!</b></u>	P.O. No.	Terms	Project	
		Net 10 days		
Description	Qty	U/M	Rate	Amount
Gravel Hauled from 6/22-6/26				
1 1/4" Road Rock(per ton)	16.33		8.75	142.89T
BPA- screenings(per ton)	576.28		3.95	2,276.31T
Gravel Hauling (per ton)	592.61		6.67	3,952.71T
Day 115(Grading out and watering in parking area and grass islands)6/22/20				
Bobcat T630	5	hr	110.00	550.00
Excavation labor per hour	11.5	hr	60.00	690.00
Day 116(Grading out and watering in parking area and grass islands)6/23/20				
Bobcat T630	4	hr	110.00	440.00
Excavation labor per hour	7.5	hr	60.00	450.00
Day 117(Continued grading and watering parkinglot area and grass islands)6/24/20				
Bobcat T630	7.4	hr	110.00	814.00
96" Laser Grader	2.8		75.00	210.00
Excavation labor per hour	11.85	hr	60.00	711.00
Day 118(Continued grading and watering parking lot and grass islands)6/25/20				
Bobcat T630	8.3	hr	110.00	913.00
96" Laser Grader	2.5		75.00	187.50
Excavation Labor per hour	7.5	hr	60.00	450.00
Please make check payable to: Hall's Bobcat Service			<b>Sales Tax (0.0%)</b>	
Term: Cash - Accounts not paid within 10 days of the date invoiced are subject to a 1.5% monthly finance charge.			<b>Total</b>	
email: hallsbobcatservice@gmail.com			<b>Payments/Credits</b>	
THANK YOU FOR YOUR BUSINESS			<b>Balance Due</b>	

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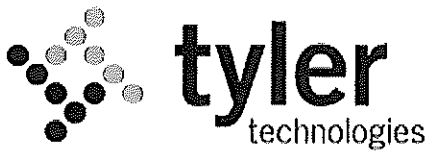
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*Office Phone #: 1-913-245-4089*

<u><b>Your Residential or Commercial Contractor!</b></u>		P.O. No.	Terms	Project
			Net 10 days	
Description	Qty	U/M	Rate	Amount
Day 119(Finished grading parking lot and grass islands)6/26/20				
Bobcat T630	3	hr	110.00	330.00
96" Laser Grader	0.5		75.00	37.50
Excavation Labor per hour	10.5	hr	60.00	630.00
Please make check payable to: Hall's Bobcat Service			<b>Sales Tax (0.0%)</b>	\$0.00
Term: Cash - Accounts not paid within 10 days of the date invoiced are subject to a 1.5% monthly finance charge.			<b>Total</b>	\$12,784.91
email: hallsbobcatservice@gmail.com			<b>Payments/Credits</b>	\$0.00
THANK YOU FOR YOUR BUSINESS			<b>Balance Due</b>	\$12,784.91



**Remittance:**  
 Tyler Technologies, Inc.  
 (FEIN 75-2303920)  
 P.O. Box 203556  
 Dallas, TX 75320-3556

# Invoice

<b>Invoice No</b>	<b>Date</b>	<b>Page</b>
130-14105	06/01/2020	1 of 1

**Questions:**  
 Tyler Technologies - Public Safety  
 Phone: 1-800-772-2260 Press 2, then 5  
 Email: ar@tylertech.com



Bill To: City of Osawatomie  
 Tammy Seamands  
 P.O. Box 37  
 Osawatomie, KS 66064

Ship To: City of Osawatomie  
 Tammy Seamands  
 P.O. Box 37  
 Osawatomie, KS 66064

<b>Cust No.-BillTo-ShipTo</b>	<b>Ord No</b>	<b>PO Number</b>	<b>Currency</b>	<b>Terms</b>	<b>Due Date</b>
44137 - MAIN - MAIN	10198		USD	NET30	07/01/2020

Date	Description	Units	Rate	Extended Price
Contract No.: OSAWATOMIE, KS				
	CAD (1 dispatcher seat included) - Maintenance	1	2,887.50	2,887.50
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Dispatcher (additional seats) - Maintenance	1	577.50	577.50
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Base RMS System - Maintenance	1	3,465.00	3,465.00
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Case Management & Events - Maintenance	1	1,212.75	1,212.75
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Property Room - Maintenance	1	866.25	866.25
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	System Administration Training	1	0.00	0.00
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Interface Incode Public Safety Recods Mgmt System	1	0.00	0.00
	Maintenance Start: 01/Jul/2020, End: 30/Jun/2021			
	Personnel - Maintenance	1	577.50	577.50
	Maintenance: Start: 01/Jul/2020, End: 30/Jun/2021			

RECEIVED

JUN 26 2020

**\*\*ATTENTION\*\***  
 Order your checks and forms from  
 Tyler Business Forms at 877-749-2090 or  
 tylerbusinessforms.com to guarantee  
 100% compliance with your software.

Subtotal	9,586.50
Sales Tax	0.00
Invoice Total	9,586.50



STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH  
TOPEKA, KS 66612



PHONE: (785) 296-3232  
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-52

Requiring masks or other face coverings in public

**WHEREAS**, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

**WHEREAS**, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

**WHEREAS**, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 2,580,000 cases of the illness and more than 126,000 deaths as a result of the illness across the United States;

**WHEREAS**, the World Health Organization declared a pandemic on March 11, 2020;

**WHEREAS**, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

**WHEREAS**, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

**WHEREAS**, as of this date, in Kansas there have been 14,990 reported positive cases of COVID-19 spread among 97 counties, including 272 deaths;

**WHEREAS**, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation;

**WHEREAS**, this worrying trend of increased COVID-19 spread is a danger to the health and safety of every Kansan and also presents a serious threat to reopening and reviving the Kansas economy;

**WHEREAS**, wearing a mask in public is the easiest and most effective way to protect each other and help keep our businesses open and our economy running;

**WHEREAS**, wearing a mask in public is not only safe and easy, it is necessary to avoid more restrictive local measures that could involve closing businesses, schools, organized youth sports, and other important activities;

**WHEREAS**, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization;

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, requiring that masks or other face coverings be worn in public spaces is necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans.

**NOW, THEREFORE**, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925(b) and (c)(11), in order to ensure that Kansans can to help keep each other safe and keep our businesses open as we restore our economy, I hereby direct and order the following:

1. Effective at 12:01 a.m. on Friday, July 3, 2020, any person in Kansas shall cover their mouth and nose with a mask or other face covering when they are in the following situations:
  - a. Inside, or in line to enter, any indoor public space;
  - b. Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;<sup>1</sup>
  - c. Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle;
  - d. While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

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<sup>1</sup> Unless directed otherwise by an employee or healthcare provider.

2. Also effective at 12:01 a.m. on Friday, July 3, 2020, all businesses or organizations in Kansas must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:
  - a. Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
  - b. Employees are working in any space where food is prepared or packaged for sale or distribution to others;
  - c. Employees are working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
  - d. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
  - e. Employees are in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
3. The following are exempt from wearing masks or other face coverings in the situations described in paragraphs 1 and 2:
  - a. Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
  - b. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
  - c. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
  - d. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
  - e. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
  - f. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;

- g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
- h. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
- i. Persons engaged in an activity or event held or managed by the Kansas Legislature;
- j. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- k. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

4. Definitions:

- a. "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- b. "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

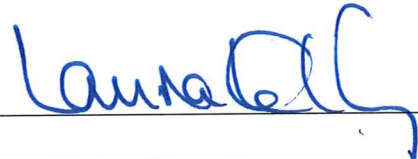
- 5. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
- 6. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders as necessary to respond to escalating or worsening conditions in any local jurisdiction. Counties may also exercise authority granted by K.S.A. 48-925 as amended by 2020 Special Session House Bill 2016, Sec. 33.
- 7. As currently permitted pursuant to state law, the Attorney General, county attorneys, and district attorneys enforcing this order should use their discretion and consider the totality of the circumstances as they determine appropriate enforcement actions.

8. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
9. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomi Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
10. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

This document shall be filed with the Secretary of State as Executive Order No. 20-52. It shall become effective as of 12:01 a.m. on July 3, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency extended by House Bill 2016 enacted during the June 2020 special session relating to COVID-19 expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

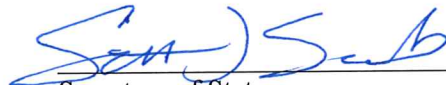
THE GOVERNOR'S OFFICE

BY THE GOVERNOR

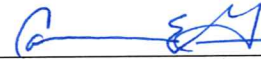


DATED

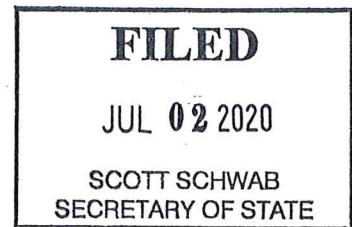
7.2.2020



Secretary of State



Assistant Secretary of State



**RESOLUTION NO. R20-07-002**

**AN ORDER EXEMPTING MIAMI COUNTY, KANSAS FROM THE PROVISIONS OF EXECUTIVE ORDER NO. 20-52 MANDATING THE WEARING OF MASKS OR OTHER FACE COVERINGS IN PUBLIC.**

WHEREAS, Miami County, Kansas is a county government created by the State of Kansas and the Board of County Commissioners is the governing body of said government; and

WHEREAS, the Board of County Commissioners is authorized, pursuant to K.S.A. 48-925, as amended by Special Session Bill 2016, Sec. 33 (h) to issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor; and

WHEREAS, Governor Laura Kelly on July 2, 2020 issued Executive Order No. 20-52 requiring the wearing of masks or facial coverings in public statewide, with said Order to take effect at 12:01 a.m. on Friday, July 3, 2020; and

WHEREAS, the Board of County Commissioners has consulted with and receive input from the local health officer regarding Executive Order No. 20-52; and

WHEREAS, the Board of County Commissioners has received and reviewed a memo dated July 1, 2020 from the School Superintendents of USD #367, 368 and 416; and

WHEREAS, a special Commission was held July 2, 2020 and the Commission received comments from the general public at said hearing; and

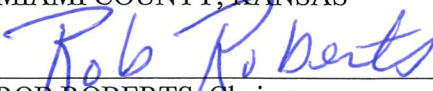
WHEREAS, the Board of County Commissioners finds that after consultation with the local public health officer and after considering the comments received from county school superintendents and the public, it is strongly suggested that mask or facial covering be utilized in public but the mandatory requirements of Executive Order No. 20-52 are not necessary to protect the public health and safety of Miami County.

NOW THEREFORE BE IT DECLARED AND ORDERED by the Board of County Commissioners, pursuant to the above authorities and findings, that Miami County will be less restrictive than Executive Order No. 52 in the following respects:

1. Use of masks and/or facial coverings will not be legally mandated within Miami County.
2. Each business and public entity will decide whether or not mask/facial coverings will be required in such business or public facility.
3. Each school district, public or private, within Miami County shall decide whether mask/facial coverings will be mandatory within the district's facilities.

**DECLARED AND ORDERED THIS 2ND DAY OF JULY, 2020.**

BOARD OF COUNTY COMMISSIONERS  
MIAMI COUNTY, KANSAS

  
\_\_\_\_\_  
ROB ROBERTS, Chairman

Daniel Gallagher  
DANIEL GALLAGHER, Chairman Pro Tem

Phil Dixon  
PHIL DIXON, Commissioner

George Pretz  
GEORGE PRETZ, Commissioner

Tyler Vaughan  
TYLER VAUGHAN, Commissioner

ATTEST:

Janet White  
JANET WHITE, County Clerk



<u>Date of Opt-In</u>	<u>Governing Body</u>	<u>Additional Comments</u>
6/30/2020	Wyandotte County	Implemented prior to Gov. order
7/1/2020	Douglas County	Implemented prior to Gov. order
7/3/2020	Johnson County	
7/3/2020	Wichita, KS	
7/3/2020	Allen County	
7/3/2020	Atchison County	
7/3/2020	Bourbon County	
7/3/2020	Crawford County	
7/3/2020	Dickinson County	
7/3/2020	Franklin County	
7/6/2020	Salina, KS	
7/6/2020	Winfield, KS	
7/8/2020	Manhattan, KS	
7/8/2020	Saline County	Reversed a previous opt-out vote





STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

**DEREK SCHMIDT**  
ATTORNEY GENERAL

MEMORIAL HALL  
120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
[WWW.AG.KS.GOV](http://WWW.AG.KS.GOV)

# MEMORANDUM

TO: Kansas Prosecutors and Law Enforcement  
FR: Attorney General Derek Schmidt  
CC: Governor, Adjutant General, KHP Superintendent, KBI Director  
DT: July 2, 2020  
RE: Addendum 3 to March 24, 2020, state and local law enforcement duties and authorities memorandum regarding enforcement of orders issued pursuant to the Kansas Emergency Management Act after enactment of 2020 Special Session House Bill 2016 (HB 2016)

This Addendum assists state and local law enforcement and county and district attorneys in determining their duties and authorities related to enforcement of emergency orders of the Governor issued under authority of K.S.A. 48-924 and K.S.A. 48-925 (“emergency orders”).<sup>1</sup> It reflects changes in enforcement authorities and procedures established in statute by House Bill 2016, which was passed by the Legislature on June 4, 2020, signed into law by the Governor on June 8, 2020, and became effective on publication in the Kansas Register on June 9, 2020.<sup>2</sup> To the extent this Addendum conflicts with provisions of my March 24, 2020, memorandum on state and local law enforcement duties and authorities or Addendums to that Memorandum issued prior to this date, this Addendum replaces provisions of those prior documents.

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<sup>1</sup> The statutory changes discussed in this Addendum also apply to local emergency orders entered under authority of K.S.A. 48-932. Except as expressly noted herein, this Addendum does not discuss authorities arising under other statutes.

<sup>2</sup> HB 2016, § 43; 39 Kan. Reg. 755 (June 9, 2020).

## Background

Enactment of House Bill 2016 fundamentally changed numerous authorities related to the issuance and enforcement of emergency orders. On July 2, 2020, the Governor issued Executive Order 2020-52, which requires the wearing of facemasks in most indoor and many outdoor public places (“Mask Order”) to impede the spread of COVID-19. This is the first new emergency order potentially requiring enforcement that has been issued since the House Bill 2016 statutory amendments;<sup>3</sup> consequently, this Addendum explains the new procedures and authorities pertinent to law enforcement and county or district attorneys in the context of the Mask Order.<sup>4</sup>

### New County-by-County Opt-out Procedure

The initial question that must be asked is whether the Mask Order is in force and effect in a particular county. If it is not, it cannot be enforced in that county. Although the Mask Order itself, like previous COVID-19-related emergency orders, contains no terms limiting its geographical application, state law now establishes a mechanism by which individual counties may effectively opt out of some or all of its requirements. Section 33 of House Bill 2016 authorizes each county commission, pursuant to a statutorily established procedure, to “issue an order relating to public health that includes provisions that are less stringent” than the Mask Order if the commission, after consultation with local health officials, finds that “implementation of the full scope of the provisions in the governor’s executive order are not necessary to protect the public health and safety of the county.”<sup>5</sup> Thus, if a county commission has exercised this new statutory authority and issued a less-stringent order, then the more-stringent aspects of the Mask Order are not in force and effect in that county and may not be enforced. The new statute does not establish any time requirement or limitation for a county commission to exercise this opt-out authority.

### Violating the Mask Order is a Civil Wrong, Not a Crime

Section 36 of House Bill 2016 repealed the criminal penalties found in K.S.A. 48-939 that previously attached to violations of an emergency order and replaced them with civil penalties or injunctive relief that may be ordered by a court in a lawsuit filed by the county or district attorney.<sup>6</sup> Thus, violation of the Mask Order is now a civil violation and

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<sup>3</sup> Other emergency orders have been issued since the statutory change, but they either were extending previous orders or were of a nature that the role of law enforcement and county or district attorneys in their enforcement were not called into question.

<sup>4</sup> Although this Addendum focuses on the Mask Order just issued, the procedures and authorities it describes apply similarly to other emergency orders going forward.

<sup>5</sup> Codified at K.S.A. 48-925(h). The new law further requires that the board of county commissioners include in its order “all other relevant findings to support” its decision. This provision remains in effect through January 25, 2021, then reverts to prior law.

<sup>6</sup> Under the revised K.S.A. 48-939, the attorney general also may file a civil enforcement action. Because this Addendum provides assistance to law enforcement and to county and district attorneys, references to the attorney general are omitted in the Addendum’s text. In general, it is the intent of

not a crime;<sup>7</sup> consequently, the authorities and procedures ordinarily available to law enforcement officers to enforce criminal laws may not be used to enforce the Mask Order. For example, a law enforcement officer may not arrest a person for violating the Mask Order.<sup>8</sup> Nor may an officer conduct an investigative stop to enforce the Mask Order.<sup>9</sup> And no statute authorizes a law enforcement officer to issue a citation or to take any similar action for violation of the Mask Order.

In a broad sense, the House Bill 2016 amendments fundamentally shifted from the state's more than 8,000 law enforcement officers to the 105 county and district attorneys the discretion to *determine in the first instance* whether to commence enforcement of the Mask Order. In that sense, the Mask Order now is to be civilly enforced in a manner much more similar to civil abatement of a common nuisance<sup>10</sup> or to the Kansas Consumer Protection Act<sup>11</sup> and not as crimes. In general, citizens who violate the Mask Order may be subject to civil penalty or injunction related to their behavior only *after* a judge has entered an order to that effect in an enforcement lawsuit filed by the county or district attorney. The county or district attorney, not a law enforcement officer on the street, is the first authority to determine whether any enforcement action should be commenced in any individual circumstance. Enforcement policies, procedures and priorities lie with the county or district attorney, not with law enforcement agencies.<sup>12</sup> Therefore, law enforcement agencies are strongly encouraged to determine what assistance the county or district attorney may request from them in preparing and bringing any civil enforcement actions. Because authority to “enforce[]”<sup>13</sup> violations of the Mask Order now rests with the county or district attorney, each county or district attorney is advised to determine the manner in which he or she intends to receive complaints of violations of the Mask Order; how enforcement discretion will be exercised;<sup>14</sup> the propriety of bringing

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the attorney general to defer enforcement decisions to the local county or district attorney absent any extraordinary circumstance.

<sup>7</sup> Violating the Mask Order is not a crime. Of course, being maskless may be a relevant *fact* that tends to establish an element of *other* crimes that prohibit conduct beyond merely not wearing a mask. For example, if a private business requires people who enter its premises to wear a mask and a maskless person refuses to leave after being properly asked, the refusal to leave may constitute criminal trespass. *See* K.S.A. 21-5808(a)(1)(A). There are other conceivable circumstances in which being maskless may be a relevant *fact* in proving a criminal threat, *see* K.S.A. 21-5415(a)(2), endangering the food supply, *see* K.S.A. 21-6317, or some other crime. Similarly, violation of lawful orders issued under authority of other statutes, such as orders of a local health officer, still may be crimes under provisions of those statutes.

<sup>8</sup> *See* K.S.A. 22-2202(d) (defining “arrest” as related to “the commission of a crime”); *see also* K.S.A. 22-2401 (authorizing arrest only in relation to crimes).

<sup>9</sup> *See* K.S.A. 22-2402 (authorizing investigative stop only in relation a crime).

<sup>10</sup> *See* K.S.A. 22-3902.

<sup>11</sup> *See* K.S.A. 50-623 *et seq.*

<sup>12</sup> County and district attorneys are not required to wait for a violation to occur but may seek court-ordered injunctive relief “against a person who has violated, is violating or is otherwise likely to violate” the Mask Order. *See* K.S.A. 48-939(c) as amended by Section 36 of House Bill 2016.

<sup>13</sup> K.S.A. 48-939(b) as amended by Section 36 of House Bill 2016.

<sup>14</sup> It is possible that a county or district attorney will exercise discretion to adopt different approaches to different types of violations. For example, a restaurant that refuses to require its food-

an enforcement action in any individual case;<sup>15</sup> the manner in which investigation of potential violations should be conducted; and similar types of enforcement issues.

Because of this changed enforcement structure, individual law enforcement agencies and officers (as appropriate in each jurisdiction) are strongly encouraged to consult with their local county or district attorney to determine how he or she intends to exercise the new civil enforcement authority granted by Section 36 of House Bill 2016. Although enforcement of the Mask Order is now the responsibility of the county or district attorney, law enforcement agencies should consider adopting procedures or otherwise giving guidance to their officers who encounter violations of the Mask Order to help ensure a consistent approach for citizens throughout each county. While enforcement may be initiated only by the county or district attorney, law enforcement officers continue to have the same abilities as any citizen to report potential violations to the county or district attorney, and officers also remain free to courteously and professionally encourage citizens to comply with the Mask Order (without effecting a stop for that purpose). Thus, officers should be given guidance from law enforcement agency leadership, in consultation with the county or district attorney, on these sorts of matters.

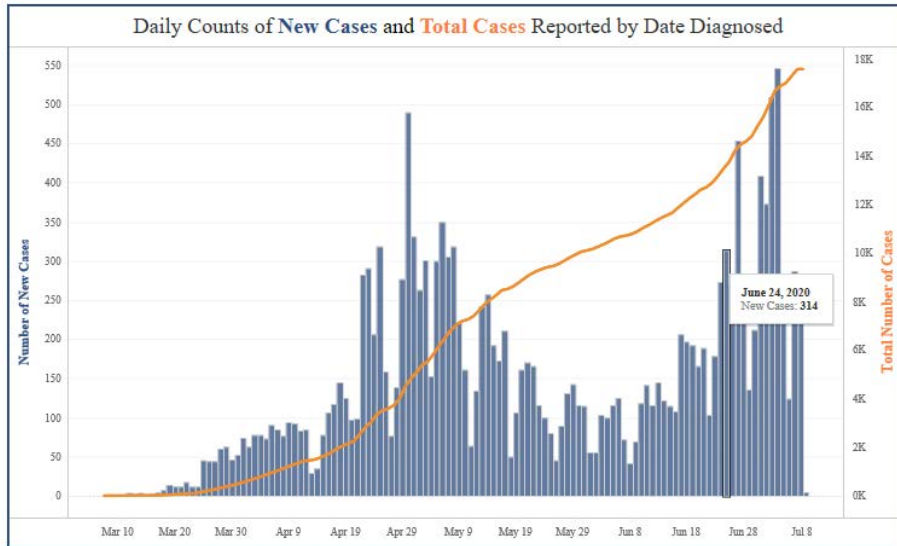
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service workers to wear masks while serving food to the public in violation of the Mask Order may be a priority for enforcement while a private citizen walking through an office hallway in a business not open to members of the public may not.

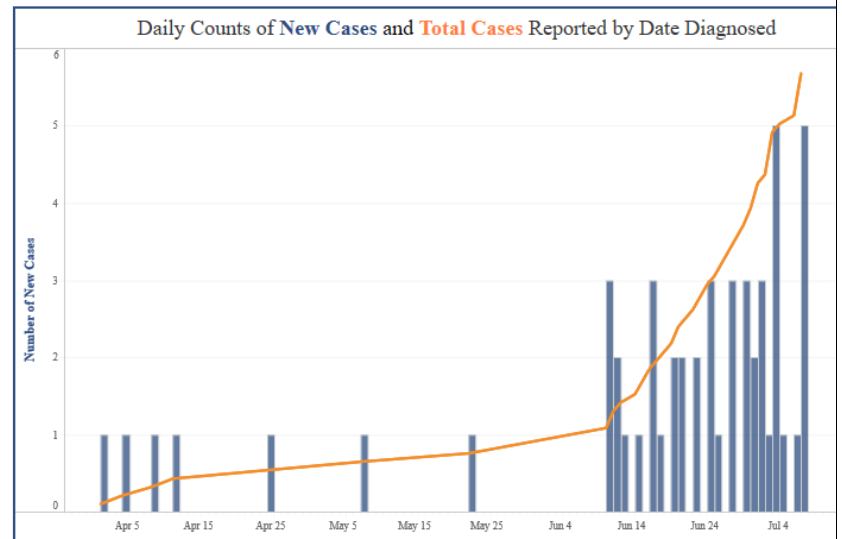
<sup>15</sup> For a more thorough discussion of the county or district attorney's duty to assess the lawfulness of an emergency order before undertaking enforcement, see Attorney General Opinion 2020-6. Be mindful, however, that the assessment in that Opinion arose in the context of potential criminal prosecution, and the bar for a lawfulness assessment may be somewhat lower in the civil enforcement actions now authorized by House Bill 2016. In addition, a county or district attorney should consider potential constitutional or other legal concerns that may arise from applying the Mask Order in particular situations; for example, for the government to threaten a civil penalty of up to \$2,500 or otherwise to compel a person to purchase and wear a mask as a precondition for entering a polling place to cast a vote may present concerns about unlawful voter suppression.

# COVID-19 DASHBOARD

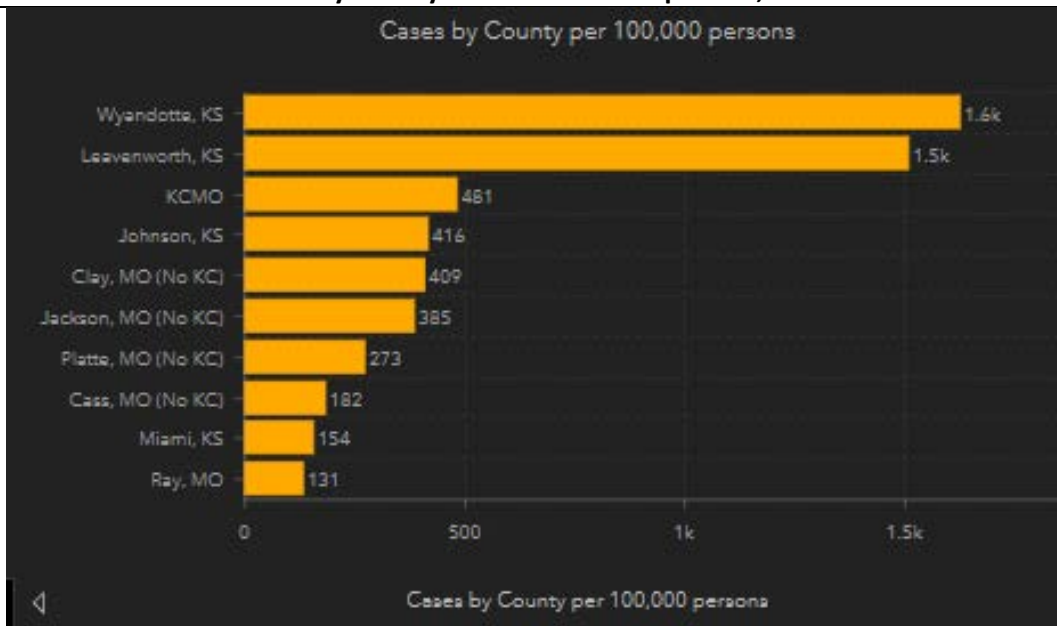
## State of Kansas



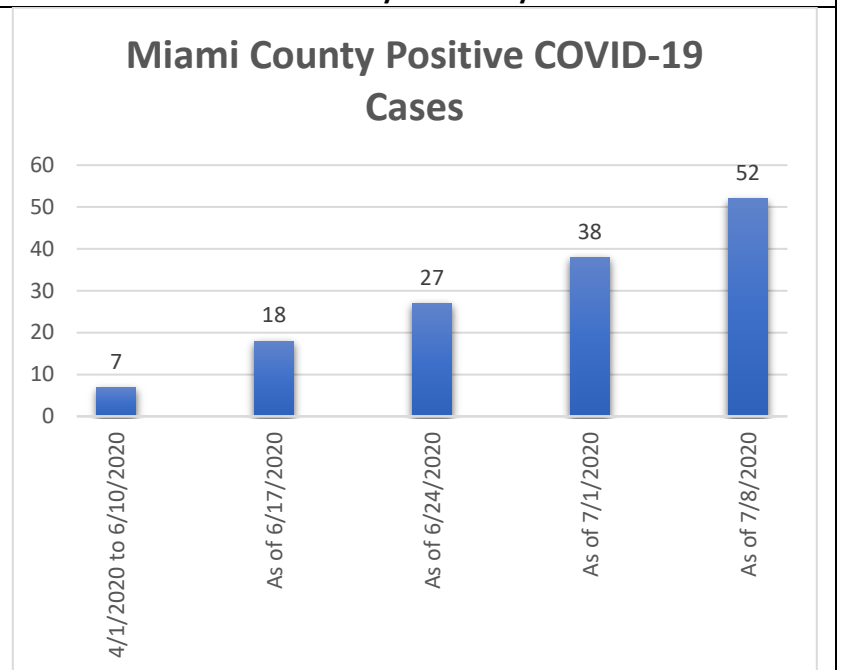
## Miami County



## Cases by County – KC METRO area per 100,000.



## Miami County -- Cases by Week



## Statements and Observations

Statements	Observation
<ul style="list-style-type: none"> <li>• More testing is going to create more positive cases.</li> </ul>	<p>That’s also true with an increase in the spread of the virus. The real measure we need to watch is positivity rate. That’s the percentage of people who test positive for the virus out of those overall who have been tested. So, is the positivity percentage going up? <u>Based on the latest data it appears it is.</u> Positivity rates have been increasing in the State of Kansas, the Kansas City Metro area and Miami County. It’s one of the reasons Kansas has been put on several states’ quarantine lists.</p>
<ul style="list-style-type: none"> <li>• You can’t enforce (criminal prosecution) a Face Covering Ordinance.</li> </ul>	<p>It’s true that Kansas Counties can’t but the Kansas Attorney General stated yesterday – cities can. The Kansas Constitution gives broad “Home Rule” powers to local governments and we can, in fact, enforce this Ordinance.</p>
<ul style="list-style-type: none"> <li>• You’ll tie up resources enforcing this ordinance if the Police Department is responding to mask violations.</li> </ul>	<p>Our hope (just like we saw in the stay at home orders) is that people, when asked, have followed the law. Education is our first line of defense and we believe our citizens will do whatever it takes to protect each other. <b>We believe in our citizens!</b></p>
<ul style="list-style-type: none"> <li>• Why is Osawatomie considering this?</li> </ul>	<p>Unfortunately, we have two higher levels of government that gave us conflicting direction. Both the State (mandated) and County (encouraging it) believe that face coverings are important and can help. Our decision is whether or not we think it important enough that it should become a law.</p>
<ul style="list-style-type: none"> <li>• How long will this last?</li> </ul>	<p>We purposely did not apply a date for two reasons. First, because we wanted to avoid having to revisit the ordinance every time a date changed at the State level; and second, we have the ability to repeal this ordinance at any time we feel it no longer applies to us. We’ve tried to leave flexibility that we hope helps our small businesses going forward.</p>

**ORDINANCE NUMBER 3783**

**AN ORDINANCE REQUIRING THE WEARING OF MASKS OR OTHER FACE COVERINGS IN PUBLIC SPACES.**

**WHEREAS**, securing the health, safety, and economic well-being of residents of the City of Osawatomie is of the highest priority of the City Council; and

**WHEREAS**, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 2,932,596 cases of the illness and more than 130,000 deaths as a result of the illness across the United States; and

**WHEREAS**, the World Health Organization declared a pandemic on March 11, 2020; and

**WHEREAS**, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

**WHEREAS**, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020; and

**WHEREAS**, as of this date, in Kansas there have been 16,901 reported positive cases of COVID-19 spread among 98 counties, including 280 deaths; and

**WHEREAS**, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation; and

**WHEREAS**, in Miami County, there is a recent increase in cases as is reported; and

**WHEREAS**, this increased spread of COVID-19 is a danger to the health and safety of residents of Osawatomie and also presents a serious threat to reopening and reviving the Osawatomie economy; and

**WHEREAS**, wearing a mask in public is the easiest and most effective way to protect each other and help keep our businesses open and our economy running; and

**WHEREAS**, the City of Osawatomie must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of our responsibility to provide for and ensure the health, safety, security, and welfare of the people of the

City of Osawatomie, requiring that masks or other face coverings be worn in public spaces is necessary to promote and secure the safety and protection of the civilian population, **SO NOW, THEREFORE**

**BE IT ORDAINED** by the Governing Body of Osawatomie, Kansas:

**Section 1. Definitions.** The following terms shall have the following meanings:

- a. "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- b. "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.

**Section 2. Requirements of persons.** All persons in the City of Osawatomie shall cover their mouths and noses with a mask or other face covering when they are in the following situations:

- a. Inside any indoor public space where distancing of 6 feet at all times is not possible;
- b. In line and waiting to enter an indoor public space;
- c. Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee or healthcare provider;
- d. Waiting for or riding on public transportation or while in a taxi, private car service, or ridesharing vehicle; or
- e. While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.

**Section 3. Requirements of businesses, organizations, and non-profit associations.** All businesses, organizations and non-profit associations in the City of Osawatomie must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:

- a. Employees are working in any space visited by customers, members of the public or co-workers, who are present at the time;
- b. Employees are working in any space where food or beverages are prepared or packaged for sale or distribution to others;
- c. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or



d. Employees are in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.

**Section 4. Exemptions.** The following individuals are exempt from wearing masks or other face coverings in the situations described in Sections 2 and 3:

- a. Persons age five years or under; children age two years and under in particular should not wear a face covering because of the risk of suffocation;
- b. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
- c. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
- d. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
- e. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- f. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
- g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
- h. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
- i. Persons engaged in an activity or event held or managed by the Kansas Legislature;
- j. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and
- k. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.

**Section 5. Education and Enforcement.**

- a. It shall be the goal of the City of Osawatomie to educate the public and our businesses on the need to wear masks to reduce the spread of COVID-19 and prevent violations of this Ordinance.
- b. It shall be our intention to use education and community outreach as our first line of enforcement.

- c. Any person, business, organization, or non-profit association identified to the City that are in violation of this ordinance on more than two occasions shall be guilty of a misdemeanor, punishable by:
  - 1. A fine of no less than twenty-five (\$25.00) dollars upon a first cited violation.
  - 2. A fine of no less than fifty (\$50.00) dollars upon a second cited violation.
  - 3. A fine of no less than one hundred (\$100.00) dollars upon a third or subsequent cited violation

**Section 6. Effective.** This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 3783 Summary

On July 9, 2020, the City Council passed Ordinance No. 3783. The Ordinance requires the wearing of masks or other face coverings in public spaces; addresses the requirements of persons, businesses, organizations, and non-profit associations; outlines specific exemptions from the requirement of wearing masks or other face coverings; and addresses the penalties for a first, second, and any subsequent violations of the Ordinance. A complete copy of the Ordinance can be found at [www.osawatomeiks.org](http://www.osawatomeiks.org) or in the office of the City Clerk, 509 5<sup>th</sup> Street, This summary is certified by the City Attorney.

Introduced: July 9, 2020

Passed: July 9, 2020

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L. Mark Govea, Mayor

[SEAL]

ATTEST:

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Tammy Seamands, City Clerk

The publication summary set forth above is certified this 9th day of July, 2020.

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Richard Wetzler, City Attorney



City of Osawatomie

<b>ACTION ITEM SUMMARY</b>	Item Number:	9.A
	Date:	July 9, 2020
City Manager	From:	Mike Scanlon

**RE:** Resolution 800 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 102 regarding Expenditure Authorization

**RECOMMENDATION:** That the City Council approve Resolution 800 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 102 regarding Expenditure Authorization.

**DETAILS:** There are several actions that while not regulated nor directed by State Statute or Municipal Code need to be accounted for by establishing City Council policies. The policy manual described in Resolutions 787 and the attached City Council Policy 102 is an example of one such “action.” City Council Policy 102 outlines how, among other regulations for capital equipment purchases, department heads would hereby be authorized to spend according to their approved budget, exclusive of all capital equipment purchases greater than \$2,500, which must be approved by the City Manager.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

**CITY OF OSAWATOMIE**  
**CITY COUNCIL POLICY MANUAL**

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**Policy No. 102**

**Expenditure Authorization**

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- 1.01 Department heads are hereby authorized to spend according to their approved budget, exclusive of all capital equipment purchases greater than \$2,500, which must be approved by the City Manager. For purposes of this policy, the term “City Manager” may also refer to his/her designee.
- 1.02 The City Manager is authorized to spend according to the Citywide approved budgets and annual 10-Year Major Equipment Replacement Schedule. It is the responsibility of the City Manager on all capital equipment purchases over \$2,500 and under \$10,000 to solicit bids or quotes and on all capital equipment purchases over \$10,000 to solicit written bids and make the purchase on the lowest and/or best bidder. In the case of an emergency, the City Manager is authorized to expend funds from the City’s General Fund Contingency Account without obtaining bids or quotes.
- 1.03 A listing of all purchases will be presented in the Monthly Appropriations Report to the City Council and will be available to the public in the City Clerk’s Office.
- 1.04 For all capital equipment purchases over \$2,500 that are not part of the approved budget or annual 10-Year Major Equipment Replacement Schedule the City Manager shall cause bids to be solicited, and shall forward the purchase recommendation to the responsible City Council committee for action by the Committee and the City Council.
- 1.05 For all bids awarded by the City Council it will be the responsibility of the City Manager to make the appropriate expenditures in accordance with the bid approved by the City Council.
- 1.06 The City Manager has the authority to approve change orders related to a Capital Improvement Project up to a cumulative total of 2% of the bid or proposal and less than \$20,000. The City Manager at the time a project is bid can request that the City Council grant a waiver to this Policy. This waiver will only be granted if a Resolution establishing a new maximum amount is presented to the City Council for consideration and passed by a majority of the Governing Body.

**APPROVED BY THE GOVERNING BODY ON JUNE 25, 2020**

**RESOLUTION NO. 800**

**BY THE CITY OF OSAWATOMIE, KANSAS**

**A RESOLUTION OF THE CITY COUNCIL OF OSAWATOMIE, KANSAS,  
ADOPTING COUNCIL POLICY 102 REGARDING EXPENDITURE  
AUTHORIZATION**

**WHEREAS**, City of Osawatomie has a collection of governing documents including the City Code and associated City Charter Ordinances and various administrative procedures; and

**WHEREAS**, the City of Osawatomie wanted to increase the level of professionalism in both the services they deliver but also the policies they establish; and

**WHEREAS**, the City Council through the promulgation of the City Council policies wanted to create a policy framework which City staff can work within and so adopted the City Council Policy Manual.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:**

**SECTION ONE:** The City Council adopts City Council Policy 102, Expenditure Authorization.

**SECTION TWO:** The City Council on an annual basis will review the City Council Policy Manual to ensure that the policies contained in the manual are meeting their original intent.

**SECTION THREE:** The City Manager shall promulgate, review, and recommend changes to the City Council policies when necessary. City Council action is required for all changes to the City Council Policy Manual.

**PASSED AND APPROVED** by the Governing Body of the City of Osawatomie, Kansas, this 9<sup>th</sup> day of July, 2020, a majority voting in favor of.

**APPROVED** and signed by the Mayor.

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L. Mark Govea, Mayor

(SEAL)

ATTEST:

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Tammy Seamands, City Clerk



City of Osawatomie

<b>ACTION ITEM SUMMARY</b>	Item Number:	9.B
	Date:	July 9, 2020
City Manager	From:	Mike Scanlon

**RE:** Resolution 801 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 103 regarding Funeral Gifts and Memorials

**RECOMMENDATION:** That the City Council approve Resolution 801 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 103 regarding Funeral Gifts and Memorials.

**DETAILS:** There are several actions that while not regulated nor directed by State Statute or Municipal Code need to be accounted for by establishing City Council policies. The policy manual described in Resolutions 787 and the attached City Council Policy 103 is an example of one such “action.” City Council Policy 103 outlines how the governing body administers funeral gifts for employees, elected or appointed officials, or relatives of such persons, and how City staff will administer applications from members of the public wishing to install memorials in City-owned public spaces.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

**CITY OF OSAWATOMIE**  
**CITY COUNCIL POLICY MANUAL**

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**Policy No. 103**

**Funeral Gifts and Memorials**

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- 1.01 It shall be the policy of the City of Osawatomie to donate gifts upon the death of an employee, elected official, appointed official, or any related family member.
- 1.02 Family member shall be based on the definition proved in the City of Osawatomie’s Personnel Policy.
- 1.03 Gifts shall not exceed \$75.00 and will be paid out of the General Fund Administration account.
- 1.04 The Mayor has the authority to expand the definition of this policy and donate gifts to other civic leaders and their family members.
- 1.05 Persons wishing to install memorials in City-owned public spaces must adhere to specified memorial regulations regarding size, installation location, type of memorial, etc., which will be submitted to the City Manager, or his/her designee, for approval.
- 1.05 The City Council will on a bi-annual basis review this policy to ensure that the gift amount is appropriate.

**APPROVED BY THE GOVERNING BODY ON JULY 9, 2020**

**RESOLUTION NO. 801**

**BY THE CITY OF OSAWATOMIE, KANSAS**

**A RESOLUTION OF THE CITY COUNCIL OF OSAWATOMIE, KANSAS,  
ADOPTING COUNCIL POLICY 103 REGARDING FUNERAL GIFTS AND  
MEMORIALS**

**WHEREAS**, City of Osawatomie has a collection of governing documents including the City Code and associated City Charter Ordinances and various administrative procedures; and

**WHEREAS**, the City of Osawatomie wanted to increase the level of professionalism in both the services they deliver but also the policies they establish; and

**WHEREAS**, the City Council through the promulgation of the City Council policies wanted to create a policy framework which City staff can work within and so adopted the City Council Policy Manual.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:**

**SECTION ONE:** The City Council adopts City Council Policy 103, Funeral Gifts and Memorials.

**SECTION TWO:** The City Council on an annual basis will review the City Council Policy Manual to ensure that the policies contained in the manual are meeting their original intent.

**SECTION THREE:** The City Manager shall promulgate, review, and recommend changes to the City Council policies when necessary. City Council action is required for all changes to the City Council Policy Manual.

**PASSED AND APPROVED** by the Governing Body of the City of Osawatomie, Kansas, this 9<sup>th</sup> day of July, 2020, a majority voting in favor of.

**APPROVED** and signed by the Mayor.

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L. Mark Govea, Mayor

(SEAL)

ATTEST:

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Tammy Seamands, City Clerk





City of Osawatomie

<b>ACTION ITEM SUMMARY</b>	Item Number:	9.C
	Date:	July 9, 2020
City Manager	From:	Mike Scanlon

**RE:** Resolution 802 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 104 regarding a Tax Increment Financing (“TIF”) Policy.

**RECOMMENDATION:** That the City Council approve Resolution 802 – A Resolution of the City Council of Osawatomie, Kansas, adopting Council Policy 104 regarding a Tax Increment Financing (“TIF”) Policy.

**DETAILS:** City Council Policy 104 establishes the official position and procedures of the City of Osawatomie, Kansas, for considering applications for Tax Increment Financing (“TIF”) used for economic development and redevelopment purposes in accordance with the provisions of K.S.A. 12-1770 through 12-1780.

Related Statute / City Ordinances	N/A
Line Item Code/Description	N/A
Available Budget:	N/A

**CITY OF OSAWATOMIE**  
**CITY COUNCIL POLICY MANUAL**

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**Policy No. 104**

**Tax Increment Financing Policy**

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**1.01 OBJECTIVES**

The purpose of this Policy is to establish the official position and procedures of the City of Osawatomie, Kansas, for considering applications for Tax Increment Financing (“TIF”) used for economic development and redevelopment purposes in accordance with the provisions of K.S.A. 12-1770 through 12-1780.

**1.02 SCOPE**

The City recognizes that the proper use of Tax Increment Financing can promote, stimulate and develop the general and economic welfare of and quality of life in the City. The City is committed to the high quality and balanced growth and development of the community; to preserving the City’s unique character and distinctive atmosphere; and to revitalizing and redeveloping areas of the City. Although the City does not encourage the practice of subsidizing private businesses with public funds, insofar as the City’s objectives are substantially advanced by the expansion of the tax base and enhancement of the local economy, the City will consider, on a case-by-case basis, the approval of TIF projects where, but for the availability of TIF, such projects would not be economically viable. It is the policy of the City that any decision regarding the approval of TIF projects will be made in accordance with the guidelines, criteria, and procedures outlined in this Policy. Nothing herein shall imply or suggest that the City be under any obligation to approve a TIF project for any applicant.

**1.03 DEFINITIONS**

For the purpose of this Policy, the words or phrases as used in either the Kansas Constitution, applicable State statutes, or this Policy shall have meaning or be construed as follows:

**Applicant:** The individual or business and its officers, employees, and agents requesting approval of the TIF Project.

**Associated Therewith:** As used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.

**Blighted Area:** An area of real property qualifying as such, in the opinion of the Governing Body, pursuant to K.S.A. 12-1771.

**Feasibility Study:** A comprehensive study, prepared as required under K.S.A. 12-1771, which shows the benefits derived from the TIF Project will exceed the costs and the income therefrom will be sufficient to pay for the Project.

**Redevelopment Plan:** A description of a TIF Project, which includes the requirements of K.S.A. 12-1772.

**TIF District:** An area determined to be a redevelopment district by the Governing Body pursuant to the requirements of K.S.A. 12-1771.

**TIF Project:** The improvements to real property for which Tax Increment Financing has been approved.

**Tax Increment:** The difference between the amount of *ad valorem* property taxes assessed against the TIF District prior to the completion of the TIF Project and the amount of *ad valorem* property taxes assessed against the TIF District after completion of the TIF Project. For example, if the taxes assessed prior to completion of the TIF Project were \$5,000, and the taxes assessed after the completion of the TIF Project were \$50,000 annually, the “tax increment” would be \$45,000.

## 1.04 PROVISIONS

### A. Legal Authority

Pursuant to K.S.A. 12-1771, the City may create TIF Districts in blighted areas, conservation areas, and enterprise zones created pursuant to K.S.A. 12-17,110. Certain costs of improvements within the TIF District may be reimbursed to the developer or paid through the issuance of special obligation bonds or full faith and credit bonds. Funds to pay the reimbursement or to retire the bonds are generated by the tax increment and other sources that may be pledged by the City. This authority is discretionary and the City may provide for Tax Increment Financing in an amount and for the purposes more restrictive than that authorized by statute.

No privately owned property shall be acquired and redeveloped under the provisions of the Act if the Miami County Board of Commissioners or the Board of Education levying taxes on property proposed to be included in the TIF District determines that the proposed TIF District will have an adverse effect on such county or school district.

### B. Eligible TIF Expenses

The Act specifies permissible TIF expenses, including:

- a. Acquisition of property within the TIF Project area;
- b. Payment of relocation assistance;
- c. Site preparation;
- d. Sanitary and storm sewers and lift stations;
- e. Drainage conduits, channels and levees;
- f. Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- g. Street lighting fixtures, connection and facilities;
- h. Underground gas, water, heating, and electrical services and connections located within the public right-of-way;
- i. Sidewalks and pedestrian underpasses or overpasses;
- j. Drives and driveway approaches located within the public right-of-way;
- k. Water mains and extensions;
- l. Plazas and arcades;
- m. Parking facilities, including parking structures;
- n. Landscaping and plantings; fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- o. All related expenses to redevelop and finance the Redevelopment Project

The costs of construction of buildings or other structures to be privately owned are not eligible TIF expenses.

### **C. Bond Authority**

The City may use proceeds of special obligation bonds or full faith and credit tax increment bonds to finance the undertaking of a redevelopment project, as provided in K.S.A. 12-1774. The maximum maturity of any such special obligation bonds or full faith and credit tax increment bonds shall be twenty (20) years. The City may also issue industrial revenue bonds or private activity bonds to benefit a developer located within a TIF District.

#### *1. Special Obligation Bonds*

The City may issue special obligation bonds to finance permissible expenses of the TIF District. Such bonds shall be payable, both as to principal and interest: (1) from property tax increments allocated to, and paid into a special fund of the City; (2) from revenues of the City derived from or held in connection with the undertaking and carrying out of any Project; (3) from private sources, contributions or other financial assistance from the state or federal government; (4) from the increased franchise fees and city sales tax; or (5) from any combination of these methods.

Special obligation bonds are not general obligations of the City, nor in any event shall they give rise to a charge against its general credit or taxing powers or is payable out of any funds or properties other than those sources set forth above. Should the annual increment fall short of the amount necessary to pay the principal and interest of the special obligation bonds issued under this Policy, the remaining amount payable is the responsibility of the applicant, not the City.

If a special obligation bond issued under this Policy is offered to the public, an investment grade rating must be assigned to the issue; if the bond is privately placed, it may be issued without a rating, but must be sold to an accredited investor as that term is defined by securities industry standards.

#### *2. Revenue Bonds*

Industrial revenue bonds may be issued by the City pursuant to K.S.A. 12-1740 *et seq.* to benefit a developer within the TIF District. All state law benefits associated with such bonds shall be available, except that no *ad valorem* tax abatement shall be available.

### **D. Reimbursement Authority**

Pursuant to Attorney General Opinion 96-45, TIF can be used to reimburse a developer for eligible TIF expenses as opposed to issuing bonds; this is the preferred method of granting TIF benefits. Under this method, the City agrees to reimburse the developer for eligible TIF expenses over a period of time not to exceed twenty (20) years with interest on the outstanding reimbursement amount. The reimbursement amount and interest is paid solely from all or a portion of the tax increment, and the developer takes the risk that the portion of the increment pledged for reimbursement will be insufficient to retire the eligible TIF expenses and interest.

### **E. Amount of Tax Increment Financing Available**

1. Criteria

The primary objectives of the City in granting TIF for economic development are: (a) promote, stimulate and develop the general and economic welfare of the citizens of Kansas and the City; (b) promote the general welfare of the citizens of Kansas the City through assisting in the development, redevelopment, and revitalization of central business areas, blighted areas, conservation areas, and environmentally contaminated areas located within the City; (c) create new jobs and retain existing jobs; and (d) expand the economic and tax base of the City. The City recognizes that a simple system of determining the amount of TIF to be granted in order to reach these objectives may not always be equitable if applied uniformly to different kinds of redevelopment plans. As a result, in determining the actual amount and duration of TIF to be granted, the City shall consider the factors and criteria set forth in this Policy under the Analysis of Costs and Benefits, as well as the amount and duration of previous TIF Projects supported by the City.

2. Capital Investment

To be considered for TIF, an individual or business should be making a minimum capital investment in the City of \$5,000,000.00. The term “capital investment” means the acquisition cost of land, buildings and tangible personal property constituting capital assets for accounting purposes. The minimum amount of capital investment required for TIF Projects, as provided herein, may be waived by the City based upon the unique nature of the project as determined by the Governing Body.

**F. Analysis of Costs and Benefits**

Prior to granting TIF, the City shall prepare, or direct to be prepared, a cost benefit analysis examining the costs and benefits to the public of the proposed TIF Plan. The Cost-Benefit Analysis shall be performed on a model approved by the City and shall be in addition to the Feasibility Study. The cost of preparing the Cost-Benefit Analysis shall be paid by the applicant. This cost will be in addition to the application fee required under this Policy. The City shall use the Cost-Benefit Analysis to assist in its decision-making process, but the results of the analysis will not be determinative or obligate the City to any course of action. The Cost-Benefit Analysis shall consider, but not be limited to, the following factors, as applicable:

1. The market value of the applicant’s investment in real and personal property;
2. The property tax, sales tax, franchise fees, transient guest tax, and other tax and revenue that may result and directly benefit the City;
3. The number and average employee salary of full-time equivalent jobs that will be created;
4. The expenditures that local government will need to make to provide streets and utilities, police and fire protection, and other services as a result of the TIF Project;
5. The expenditures for police and fire protection, recreation, street maintenance, social programs, etc., for the new residents associated with the TIF Project;
6. The expenditures for public capital investments (library, streets, etc.) for the new residents associated with the TIF Project;
7. The expenditures by the local school district(s) to provide the facilities and to educate the students of the new residents associated with the TIF Project;
8. Other public or private expenditures associated with attracting a new business;
9. The kinds of jobs created in relation to the types of skills available from the local labor market;

10. The degree to which the ultimate market for the applicant's business products and services is outside the community, recognizing that outside markets infuse "new money" to the local economy;
11. The potential of the applicant's business for future expansion and additional job creation;
12. The indirect costs and benefits the applicant's business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing;
13. The compatibility of the location of the applicant's business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services;
14. An evaluation of the applicant's current and projected financial strength and market viability;
15. The number and average employee salary of full-time equivalent jobs that will be retained in the City, community, or State as a result of the applicant's decision to locate or remain in the City; and
16. The value added, including tangible costs and benefits such as City reputation, congestion, environment, and quality of life to the City and community as a result of the unique nature of the applicant's business.

#### **G. Application of "But-For" Principle**

All TIF applications shall be considered in light of the "but-for" principle, i.e., the TIF must make such a difference in the decision of the applicant that the Project would not be economically feasible but for the availability of the TIF. The Governing Body does not encourage the subsidy of private businesses with public funds, the indirect consequence of TIF, unless some measurable public good results, as determined by the City, and the public subsidization can reasonably be expected to make a significant difference in achieving one or more objectives of the City. The Governing Body shall also review the Internal Rate of Return to make sure that TIF revenues are necessary in achieving a rate of return commensurate with the risk and size of the project.

#### **H. Unfair Competition**

In reviewing TIF proposals, the Governing Body shall consider whether or not such financing is likely to create an unfair advantage for the applicant over any existing competing business within the City.

#### **I. Distribution of *Ad Valorem* Taxes**

All tangible taxable property located within a TIF District shall be assessed and taxed for *ad valorem* tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all *ad valorem* taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected.

Some or all of the increment in ad valorem property taxes resulting from a redevelopment district may be apportioned by the City to a special fund for the payment of the eligible TIF expenses of the TIF Project, including reimbursement or the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued.

#### **J. Condemnation**

The use of condemnation, permitted under K.S.A. 12-1773, will be considered by the Governing Body only upon a finding that the applicant has attempted, in good faith, to acquire the property privately. In the event condemnation is approved by the Governing Body, the applicant shall be responsible for all costs associated with the proceedings, including court or litigation costs, attorney's fees and the final condemnation awards made.

#### **K. Waiver of Requirements**

The Governing Body reserve the right to grant or deny TIF for the development or redevelopment of a District under circumstances beyond the scope of this Policy, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any procedural requirement of State Law.

### **1.05 PROCEDURES**

The following basic procedures shall govern the approval of TIF Projects within the City. All requests for Tax Increment Financing shall be considered and acted upon in accordance with this Policy.

#### **A. Proposal**

The applicant shall apply for approval of a TIF Project by filing with the Public Works Department five (5) copies of a written proposal on a form provided by the Public Works Department. The proposal shall include, but is not limited to: (a) a proposed comprehensive plan that identifies all the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area; (b) description and map of the proposed redevelopment district; (c) description of the proposal boundaries of the redevelopment district; (d) information regarding expected capital expenditure by the applicant; and (e) a proposal for development assistance. The Public Works Department shall retain one copy and distribute the remaining copies to: City Manager, City Attorney, City Clerk and City Treasurer. The City will consider full and complete proposals, and additional information as may be requested by the Governing Body. Any inaccuracy, misstatement of or error in fact may render the proposal null and void and may be cause for the repeal of any development assistance rendered through the TIF statutes granted by the City in reliance upon said information.

#### **B. Proposal and Renewal Fees**

All proposals shall be accompanied by an application fee of \$5,000. This fee is in addition to other fees which may be required by the City, including fees for the issuance of tax exempt or taxable bonds, costs incurred for preparation of the Feasibility Study as required by K.S.A. 17-1771, costs associated with the Cost and Benefit Analysis required by the City and costs incurred, if any, for review and work done by the City's Financial Advisor and Bond Counsel. Actual costs incurred for review shall be billed by the City Clerk for payment within thirty (30) days of the review process.

#### **C. Initial Review Procedure**

On receipt of the completed proposal and the required fee, the City Manager shall determine whether the proposal is complete and sufficient for review. If the proposal is complete, the City Manager shall immediately notify the applicant of the need for such changes or additions as

deemed necessary. The matter shall then be referred to the City Attorney for a decision as to whether the proposed area of a redevelopment meets the requirements of a redevelopment district, as described under K.S.A. 12-1771. The City Manager shall notify the Governing Body, if the proposal is found complete and is for a purpose, which appears to be authorized by law.

#### **D. Review by Governing Body**

The Governing Body shall review requests and applications for TIF, evaluate the proposed TIF District and verify that redevelopment is necessary to promote the general and economic welfare of the City, gather and review such additional information as may be deemed necessary to determine if the applicant meets the objectives of this Policy, conduct preliminary discussions with the applicant, discuss terms of an agreement to be drafted by the City Attorney or his/her designee for Governing Body consideration and to recommend to the Governing Body whether the proposal should be favorably considered. In reviewing the information, the Committee may utilize the services of consultants, including but not limited to bond counsel and financial advisors. Committee records, including proposals submitted for TIF, may be withheld from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.

#### **E. Governing Body Action**

##### **1. *Reviewing and Establishing the TIF District***

Upon receiving the recommendation of the Committee, the Governing Body shall determine whether to reject the TIF proposal or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall take action to establish a TIF District, unless such District is already in existence. The Governing Body must conclude that redevelopment of the proposed area is necessary to promote the general and economic welfare of the City. If such a finding is made the Governing Body may adopt a resolution.

##### **A. TIF District Resolution**

The resolution shall state that the City is considering the establishment of a TIF District; additionally, it shall: (1) give notice that a public hearing will be held to consider the establishment of a redevelopment district and to fix the date, hour and place of such hearing; (2) describe the proposed boundaries of the redevelopment district; (3) describe a proposed comprehensive plan that identifies all of the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each development project area; (4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated; and (5) state that the Governing Body will consider findings necessary for the establishment of a redevelopment district.

No elected or appointed officer, employee or committee of the City, and no Chamber of Commerce, Board, Development Council, or other public or private body or individual, shall be authorized to speak for and commit the Governing Body to the provision of TIF, nor to the establishment of TIF District. Such resolution shall be an expression of good faith intent, but shall not in any way bind the City to establishing a TIF District.

##### **B. Notice and Hearing**



No TIF District shall be established, nor TIF granted, by the City prior to notice and a public hearing as required by K.S.A. 12-1771. Upon request, the City Clerk shall provide any public agency with a copy of the proposal and a description and map of the proposed TIF District. The applicant or his/her designee is required to attend the public hearing.

### **C. Establishing the TIF District**

Upon the conclusion of the public hearing and determination by Osawatomie City Attorney that the proposed area complies with K.S.A. 17-1771, the Governing Body may establish the TIF District by ordinance. Any addition of area to the TIF District or any substantial change to the comprehensive plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the District.

## **2. The Redevelopment Project**

The Governing Body and the Planning Commission will consider the redevelopment project as proposed. Together, they will prepare a redevelopment plan. The Planning Commission must determine that the Plan is consistent with the comprehensive general plan for the development of the City.

### **A. Redevelopment Plan**

The redevelopment plan shall include: (1) a summary of the Feasibility Study; (2) a reference to the redevelopment district that identifies the redevelopment project area that is set forth in the comprehensive plan that is being considered; (3) a description and map of the area to be redeveloped; (4) the relocation assistance plan, as required by K.S.A. 17-7777; (5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and (6) any other information the Governing Body deems necessary to advise the public of the intent of the Plan.

A copy of the redevelopment plan shall be delivered to the Miami County Board of Commissioners and the Board of Education of any school district levying taxes on property within the proposed redevelopment project area. Upon a finding by the Planning Commission that the redevelopment plan is consistent with the comprehensive general plan for the development of the City, and determination by the Governing Body that said Plan shall be further considered, the Governing Body will or may adopt a resolution.

### **B. Redevelopment Plan Resolution**

The resolution shall state that the Governing Body is considering the adoption of the Plan. Such resolution shall: (1) give notice that a public hearing will be held to consider the adoption of the redevelopment plan and fix the date, hour and place of such public hearing; (2) describe the boundaries of the TIF District within which the redevelopment project will be located and the date of establishment of such a district; (3) describe the boundaries of the area proposed to be included within the TIF Project area; and (4) state that the redevelopment plan, including a summary of the Feasibility Study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped are available for inspection during regular office hours in the office of the City Clerk.

Where the Governing Body determine that it will or may issue full faith and credit tax increment bonds to finance the redevelopment project, in whole or in part, the resolution shall also include notice thereof.

The date fixed for the hearing shall be no less than 30 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

### **3. Hearing**

At the public hearing, a representative of the City shall present the City's proposed redevelopment plan. Following the presentation of the Plan, all interested persons shall be given an opportunity to be heard. The Governing Body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

Following the public hearing, the Governing Body may adopt the redevelopment plan by ordinance passed upon a 2/3 vote. Any substantial changes to the Plan as adopted shall be subject to public hearing.

No full faith and credit bonds or special obligation bonds may be issued until the sixty-day protest period expires after the date of the public hearing.

### **F. Acquisition of Land**

The City may proceed to acquire property within the TIF District by purchase or eminent domain (with 2/3 vote of the Governing Body) and implement the Plan. However, the City may not exercise eminent domain in conservation areas.

#### **1.06 Responsibility for Enforcement**

The City Manager shall be responsible to the Governing Body for the enforcement of this Policy.

#### **REFERENCES**

K.S.A. 12-1770 through 12-1780; 12-17,110; and 12-1740.

**APPROVED BY THE GOVERNING BODY ON \_\_\_\_\_, 20\_\_**

**CITY OF OSAWATOMIE  
439 MAIN ST.  
OSAWATOMIE, KANSAS 66064  
(913) 755 - 2146**

**APPLICATION FOR TAX INCREMENT FINANCING**

(Applicant may attach supplemental documents to the application rather than typing the answers on the form below. The supplemental documents shall be in the same order as requested below.)

A. Project:

- 1. Business Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Fax # \_\_\_\_\_  
Contact Person \_\_\_\_\_

2. Brief description of business.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Names and addresses of the principal owners, officers, and directors of the firm requesting the Tax Increment Financing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Legal description, address, parcel IDs, and size of project site.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Proposed Project: Description of building(s) including square footage, materials, proposed use, etc. Attach site plan if available.

\_\_\_\_\_  
\_\_\_\_\_

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6. If property is to be subdivided, describe division planned.

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7. Estimated Project Costs: (Please enclose construction pro forma, if available)

- a. Land Acquisition \$ \_\_\_\_\_
  - b. Public Improvements \_\_\_\_\_
  - c. Site Improvements \_\_\_\_\_
  - d. Demolition \_\_\_\_\_
  - e. Building(s) \_\_\_\_\_
  - f. Equipment \_\_\_\_\_
  - g. Architectural & Engineering Fees \_\_\_\_\_
  - h. Legal Fees/Other Consulting Fees \_\_\_\_\_
  - i. Financing Costs \_\_\_\_\_
  - j. Contingencies \_\_\_\_\_
  - k. Other \_\_\_\_\_
  - l. Other \_\_\_\_\_
- TOTAL: \$ \_\_\_\_\_

8. Source of Financing

- a. Equity \$ \_\_\_\_\_
  - b. Bank Financing \_\_\_\_\_
  - c. Tax Increment Assistance \_\_\_\_\_
  - d. Other \_\_\_\_\_
  - e. Other \_\_\_\_\_
- TOTAL: \$ \_\_\_\_\_

9. Form of tax increment financing requested: \_\_\_\_\_ Pay-as-You-Go or  
\_\_\_\_\_ Bonds.

10. Name and address of architect, engineer and general contractor

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11. Project Construction Schedule

- a. Construction Start Date \_\_\_\_\_
- b. Construction Completion Date \_\_\_\_\_
- c. If phased project:
  - \_\_\_\_\_ Year \_\_\_\_\_ % Complete
  - \_\_\_\_\_ Year \_\_\_\_\_ % Complete

12. Total estimated market value of project upon completion \$ \_\_\_\_\_

13. Estimated real estate taxes generated by project upon completion (Please show calculations)

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14. Projected number of new jobs created:

- \_\_\_\_\_ Full-time
- \_\_\_\_\_ Part-time
- \_\_\_\_\_ Seasonal

B. Tax Increment Financing Request

1. Describe the amount and purpose for which tax increment financing is required.

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2. Statement of necessity for use of tax increment financing for project.

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3. Specify below any other data or information you deem pertinent for the City's consideration in this application:

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- 4. If requesting bonds, please attach two complete sets of the following items to the application:
  - a. Certified copies of the applicant's financial audits for the past three years
  - b. Applicant's most recent annual or quarterly financial report

5. Applicant acknowledges and agrees that all fees and expenses incurred in connection with this application or establishment of the TIF project, whether or not approved, will be paid by the

Applicant. The Applicant shall hold the City, its officers, consultants, attorneys and agents harmless from any and all claims arising from or in connection with the Project, including but not limited to any legal or actual violations of any State or Feder securities laws.

Applicant agrees and understands that a **non-refundable application fee of \$5,000** to the City of Osawatomie must be submitted with this application.

Partial completion of this application is permitted, however, prior to the adoption of the TIF agreement, the remaining supplementary information to complete this application must be furnished. Additional information may be required by the City's Attorney, Bond Counsel, or Financial Advisor.

It is understood and agreed the information required in this application or any other information will be disclosed to the City's financial team and may be disclosed to the public.

Applicant recognizes and agrees that the City reserve the right to deny any Application for Tax Increment Financing at any state of the proceedings prior to adopting the resolution approving the district, that the Applicant is not entitled to rely on any preliminary actions of the City prior to the final resolution, and that all expenditures, obligations, costs, fees or liabilities incurred by the Applicant at its sole risk and expense and not in reliance on any actions of the City.

The undersigned, a duly authorized representative of the Applicant hereby certifies that the foregoing information is true, correct and complete as of the date hereof and agrees that the Applicant shall be bound by the terms and provisions herein.

DATE: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

**RESOLUTION NO. 802**

**BY THE CITY OF OSAWATOMIE, KANSAS**

**A RESOLUTION OF THE CITY COUNCIL OF OSAWATOMIE, KANSAS,  
ADOPTING COUNCIL POLICY 104 REGARDING TAX INCREMENT  
FINANCING (“TIF”)**

**WHEREAS**, City of Osawatomie has a collection of governing documents including the City Code and associated City Charter Ordinances and various administrative procedures; and

**WHEREAS**, the City of Osawatomie wanted to increase the level of professionalism in both the services they deliver but also the policies they establish; and

**WHEREAS**, the City Council through the promulgation of the City Council policies wanted to create a policy framework which City staff can work within and so adopted the City Council Policy Manual.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:**

**SECTION ONE:** The City Council adopts City Council Policy 104, Tax Increment Financing (“TIF”) Policy.

**SECTION TWO:** The City Council on an annual basis will review the City Council Policy Manual to ensure that the policies contained in the manual are meeting their original intent.

**SECTION THREE:** The City Manager shall promulgate, review, and recommend changes to the City Council policies when necessary. City Council action is required for all changes to the City Council Policy Manual.

**PASSED AND APPROVED** by the Governing Body of the City of Osawatomie, Kansas, this 9<sup>th</sup> day of July, 2020, a majority voting in favor of.

**APPROVED** and signed by the Mayor.

\_\_\_\_\_  
L. Mark Govea, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Tammy Seamands, City Clerk





City of Osawatomie

<b>ACTION ITEM SUMMARY</b>	Item Number:	9.D
	Date:	July 9, 2020
City Manager	From:	Mike Scanlon

**RE:** Resolution 803 – A Resolution of the City Council of Osawatomie, Kansas declaring Osawatomie, Kansas to be an official entrant in the PRIDE Program for the year of 2020

**RECOMMENDATION:** That the City Council approve Resolution 803 – A Resolution declaring Osawatomie, Kansas to be an official entrant in the PRIDE Program for the year of 2020.

**DETAILS:** The Osawatomie PRIDE group has newly reformed with reinvigorated interest and fresh energy to tackle volunteer civic projects. One of the lead organizers, Wes Duncan (who works at USD #367), reached out to the Kansas PRIDE offices and procured the attached resolution for your consideration. The Osawatomie PRIDE group would benefit greatly from being a recognized participant in the statewide program.



# KANSAS PRIDE PROGRAM

## 2020 Entry Government Resolution

### Resolution No. 803

**WHEREAS**, local municipal government has a responsibility to develop the capacity to undertake a viable community development effort; and

**WHEREAS**, community development needs and problems can best be determined and solved through a cooperative effort between elected officials and those citizens they represent; and

**WHEREAS**, the Kansas PRIDE Program, co-administered by the Kansas Department of Commerce and K-State Research and Extension, has been reviewed and found to be a means to improve our community, and

**WHEREAS**, the Mayor and Council do herewith pledge their full support, endorsement, and cooperation in carrying out the requirements of the Kansas PRIDE Program.

**NOW THEREFORE BE IT RESOLVED**, that the community of Osawatomie Kansas urges its citizens to join this effort and hereby declares this city to be an official entrant in the PRIDE Program for the year of 2020.

**PASSED AND APPROVED THIS 9th DAY OF JULY IN THE YEAR OF 2020.**

**Attest:**

\_\_\_\_\_

**OR**

\_\_\_\_\_

**City Council Representative**

**Mayor**