

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

THE CITY OF EDGERTON, KANSAS,
Plaintiff,

vs.

Case No. _____

CARRIE SCHMIDT, PUBLIC TRUST
COLLECTIVE, INC., KIMBERLY TWENTE
AND ALL OTHER DEFENDANTS
KNOWN OR UNKNOWN,
Defendants.

PETITION
(Pursuant to Chapter 60)

COMES NOW, the Plaintiff, the City of Edgerton, Kansas (hereinafter the “City”), by
and through its attorneys Stumbo Hanson, LLP, and hereby submit the following Petition:

1. The City is a lawfully incorporated city of the Third Class within the boundaries
of Johnson County, Kansas.

2. Defendant Carrie Schmidt is a resident of Johnson County, Kansas and may be
personally served at her residence at 30125 W. 187th St. #535, Gardner, KS 66030. Defendant
Schmidt is the “Petition Circulator” under K.S.A. §25-3608(a) as shown in Exhibit “A” as
attached hereto and incorporated herein by this reference. Pursuant to K.S.A. §25-3608(b) the
petition circulator has agreed to be subject to the jurisdiction of the state and thus is subject to
service as a defendant herein.

3. Defendant Public Trust Collective, Inc., upon information and belief, is an
interested party in this action. Defendant Public Trust Collective, Inc. is a not-for-profit
corporation formed under the laws of the state of Kansas. It may be served by service upon its
registered agent, Public Trust Collective, Inc., 18325 Gardner Road, Unit 45, Gardner, KS
66030.

4. Defendant Kimberly Twente is an interested party in this matter, being the incorporator and on the Board of Public Trust Collective, Inc., and she may be served at 18325 Gardner Road, Unit 45, Gardner, KS 66030.

5. The Plaintiff acknowledges that there are several persons who may have an interest in this litigation, but who are not known or identified as defendants herein. This may include persons signing the Petition outlined in this case. The Plaintiff will join any such parties, and serve the same, as the Court may direct.

6. Venue is proper before this Court as the Plaintiff and the Defendants reside within Johnson County, and the events described herein occurred in Johnson County.

7. On July 15, 2026 the City was presented with a “Petition for Proposed Ordinance to Prohibit High Impact Data Centers in the City of Edgerton to Prevent Industrial Nuisances, Protect the Property of its Residents, and Preserve Municipal Resource Capacity” (the “Petition”) which was filed with the City Clerk on that date. A true and correct copy of the submitted Petition is attached hereto and incorporated herein by reference as Exhibit “A”.

8. The Petition states that it is submitted pursuant to K.S.A. §12-3013.

9. Prior to filing, and upon information and belief, Defendant Carrie Schmidt presented the Petition to the Johnson County Legal Department for review under K.S.A. §25-3601 to determine the legality of the form of the Petition. The County determined that the Petition generally conformed to the requirements of the statute as to form, as shown in Exhibit “B” herein. The Plaintiff was not notified of the submission of the Petition to the County at that time, nor was it advised of the result. The Plaintiff was later provided with a copy of that determination on July 21, 2026, upon request to the County.

10. After receipt on July 15, 2026, the Plaintiff submitted the Petition to the Johnson

County Election Office for review of the sufficiency of the signatures to the petition. On July 20, 2026 the Election Office confirmed the validity of sufficient signatures to meet the statutory requirements, as shown in Exhibit “C” herein.

11. Under K.S.A. §12-3013, the City was charged with either approving the Ordinance contained within the Petition or submitting the same to an election in the City. City officers reviewed the Petition and noted to the City Council at its regular meeting on July 23, 2026 that the body of the Ordinance presented was legally and factually deficient. City officers noted that the introductory statements contained claims to information that the City did not have and to actions the City did not perform, nor had the ability to perform. Further, the Ordinance made statements that “. . . the Governing Body finds . . .” where the following information had not been considered or determined by the Governing Body. This included unsupported statements regarding the effects of data centers that did not provide a basis for such as a determination of the Governing Body. Further, the Ordinance was administrative in nature, and thus prohibited under Kansas law. For these reasons, the City Council did not adopt the Ordinance in the Petition, nor did it set the matter for an election. Instead, the City Council approved the filing of this action to determine the validity of the Petition and the incorporated Ordinance.

12. Within the city limits of the City is the “Logistics Park Kansas City” that adjoins Burlington Northern Santa Fe Railroad’s intermodal facility. This area is zoned for heavy and light industrial uses that support the BNSF intermodal facility and allow for other industrial park uses. This area is separate from the other residential and commercial zones of the City.

13. In April 2026 a company submitted a Final Site Plan and Plat to the City to install a data center in an existing building, where portions of the property and the building would be

retrofitted to this use, while generally maintaining the footprint of the existing building and facility. This application was contested by the public and protesters sought the denial of the use.

14. On April 3, 2025, upon request, the City's Development Services Director had determined that data center uses were consistent with the B-P (Business Park) District and the L-P (Logistics Park) District zoning designation in the City's Uniform Development Code ("UDC"). The Development Services Director also notified the applicant for the data center of this determination and that the proposed use generally complied with the current zoning of the property on December 12, 2025, and as a result no rezoning of the property would be required.

15. Due to the patterns of City growth, the City does not provide water utility service in the Logistics Park. Instead, this is in the territory of Rural Water District No. 7, Johnson County, and the City directs all inquiries as to water service in this area to the District. The City provides water service to the residential and commercial areas of the City, where it is unlikely that any data centers would be allowed due to zoning restrictions.

16. The City does not maintain any electric utility under its ownership or control. Instead, electrical power throughout the City is provided by Evergy, a KCC regulated public utility. The City, as is required, allows franchised use of right of ways for Evergy to provide service, but the City does not have an agreement that requires Evergy to consult with the City on matters affecting any customer, whether residential or industrial, within or outside the City.

17. The City has not been presented with new construction for a "High Impact Data Center" either as a zoning matter or for a new building permit. It has only been requested to approve a site plan and plat for development of an existing building in an industrial zone.

18. The City has not been provided with any information as to the status of Evergy in supplying power to any area within the LP District, for any data center use, and has no reason to

expect to be consulted in the matter as it has no contract with Evergy regarding the same and no City ordinances that would regulate the supply of power apart from reasonable use of City right-of-way.

19. The City has not been involved in or advised of any action by Evergy to condemn easements or other property interests to supply power to any business in the Logistics Park. The City has no “municipal energy agreements” with Evergy.

20. The City has not been provided with any information as to requests for water service of any nature in the LP District for data center use, and it has no reason to expect to be consulted about the matter as it does not control the actions of RWD #7 as the water service provider for the area. RWD #7 mainly obtains private easements to transmit water and does not require substantial use of any City property or facilities so that the City would have the ability to control service.

21. The City operates a wastewater utility and stormwater drainage system in the Logistics Park. It has not been advised of any discharge into the system that could result from construction of “High Impact Data Centers” that would be beyond the capacity of the City to treat in the normal course of its operations, or its normal capital improvement cycle to meet wastewater demands.

22. The City Governing Body has not, at this time, reviewed the nature of “High Impact Data Centers” nor has it determined whether these types of uses cause damage to the environment or increases in utility costs for its citizens. The City Council, as a policy-making body, would rely upon the work of City staff to determine the necessary actions to address problems that arise based upon such uses. In order to impose any prohibition on use, the City would require that supporting facts be presented and the restrictions determined in light of its

zoning codes and development plans.

23. Due to the City's involvement in the development of the Logistics Park, it has been advised of potential businesses with significant water needs that were exploring construction in the Logistics Park, likely exceeding 100,000 gallons per day of water use, but would not be considered to be data centers as these were tied to manufacturing processes and not computer systems. While this project was not engaged, it was to be allowed as a properly zoned use and would have used substantial resources from RWD #7. Despite this use, it is notable that this use would not be prohibited as an industrial nuisance under the proposed Petition.

COUNT I -- DECLARATORY JUDGMENT

24. The Plaintiff incorporates by reference the allegations contained in paragraphs 1-23 of this Petition.

25. Under K.S.A. §60-1701 *et. seq.* this Court has the authority to declare the rights, status and other legal relations of the parties to this suit. The existence of another remedy does not preclude declaratory relief under these statutes.

26. K.S.A. §60-1703 grants the Plaintiff rights to additional relief as outlined in the statute.

27. K.S.A. §60-1704 gives the Court the power to construe municipal ordinances and the effect of ordinances.

28. The Plaintiff seeks judgment that the Petition is void and invalid due to statements contained in the proposed ordinance that state facts that are not true, that assert that the Plaintiff has taken certain actions that it did not take, has agreements that do not exist, or it has authority that it does not have in fact or in law.

29. The Plaintiff seeks judgment that the Petition is void and invalid as it indicates that the City Council has made certain findings that it did not make, and that are not the basis of any action by the City Council.

30. The Plaintiff seeks judgment that the Petition is void and invalid as it is an administrative ordinance under K.S.A. § 12-3013(e)(1). The Petition Ordinance:

- A. Alters existing law by defining a specific property use a nuisance *per se* to be enforced under existing City Codes that have no method to establish due process, the right to a hearing or method of abatement of any such nuisance, thus wholly relying upon administrative action to enforce. In theory, a landowner could fully comply with all elements of the zoning code for a lawful property use, yet still be denied the use due to the action of the ordinance in violation of property rights and due process guarantees.
- B. Lacks a general public purpose in favor of a narrow portion of overall policy. The City controls land uses through zoning and its comprehensive plan, not by designating some uses as nuisances to be abated. This planning process ensures that growth is done in an orderly manner and uses are limited to areas where the activity will be in line with other properties and the needs of the public. This ordinance singles out one type of use and prohibits it, without regard to zoning or the rights of a property owner.
- C. The ordinance requires specialized municipal knowledge to employ or enforce it. While on the surface the ordinance seems a matter of direct prohibition, the City would have to determine water use and power usage for any such proposed data centers, which would be difficult as the City would supply neither in the area where

the data centers would be built. The process for this determination and prohibition would have to be established via the City's existing nuisance ordinance, likely demanding a hearing process, notice to landowners and resolutions that make findings all as outlined in nuisance code procedure. This also does not address how the ordinance will be administered when non-data center uses consume water or power in line with the prohibitions in the ordinance, with no reasonable distinction of why this should be allowed.

- D. The ordinance does not address a matter of statewide concern. Like zoning, the regulation of nuisances within the City is provided by law, with codes that require notice and a hearing before the City may abate nuisance conditions. This provides for purely administrative actions in addressing nuisance conditions, and a direct review of specific properties and ownership practices, rather than singular, statewide controls. Similar to zoning, state law provides a general template, and counts on local governments to tailor rules and enforcement to their needs, pointing to an administrative purpose.

31. Section 5 of the Petition is a severance clause/statement that states that any section, subsection, clause, sentence, phrase or portion of the Ordinance is deemed invalid or unconstitutional, such section shall be severed from the Ordinance and the remainder given effect. Kansas law has established that this clause is contrary to the statute and thus cannot serve to sever the above-stated provisions from the Petition and Ordinance.

32. The Petition terms its authority in the Ordinance as an action under the City's police power for the control and abatement of industrial nuisances, not zoning control. The City alleges that the Ordinance serves as a zoning ordinance, and use of nuisance as an enforcement

power is a deception to avoid the invalidity of the proposed restriction. This is shown by the fact that the Ordinance does not prevent all industrial uses that consume substantial water, or require significant electrical power, or that have uses that cause noise or heat in industrial areas. It only prevents data center uses with these demands. If high water and electricity use is a nuisance under the findings of the City Ordinance proposed in the Petition, it cannot logically be asserted that this nuisance issue is limited to data centers alone rather than other industrial uses.

33. The Petition seeks to prohibit data centers from the City in any zone or part thereof. This restriction would be deemed a taking of any property interest developed for industrial use as the prohibition undermines the balancing required in zoning plans between uses and the maintenance of reciprocity of advantage inherent in zoning controls.

COUNT II -- PERMANENT INJUNCTION

34. The Plaintiff incorporates by reference the allegations contained in paragraphs 1-33 of this Petition.

35. Under K.S.A. § 60-901 this Court is empowered to grant injunctive relief.

36. To obtain injunctive relief, the petitioner generally must show: (1) there is a reasonable probability of irreparable future injury to a party; (2) an action at law will not provide an adequate remedy; (3) that the petitioner is likely to prevail on the merits; (4) the threatened injury to the plaintiff outweighs whatever damage the proposed injunction may cause the opposing party; and (5) the injunction, if issued, would not be adverse to the public interest.

37. There is a reasonable probability of future injury to the Plaintiff. A special election with the ballot measure presented would enshrine fact findings and statements that are not true and pretend to powers that the City does not have. The provisions of the law would not

allow the ordinance to be repealed for 10 years, causing further difficulties that will result in litigation over the effects of the ordinance that the City must defend.

38. An action at law will not provide relief that is as effective or complete as an injunction in this case. If the Petition and ordinance are void or invalid, the only appropriate result is a permanent injunction against passage of the ordinance or submission of the same to a vote.

39. The Plaintiff contends it is likely to prevail on the merits in this case, and will have the same determined by the action for declaratory judgment.

40. The damage to the Plaintiff outweighs the negligible damage to the Defendants in this case. The forced passage or vote on the Ordinance will enshrine the factual statements and requirements as law for 10 years. This will serve to divest landowners of rights of development, perhaps retroactively, and would be deemed a taking—all resulting in costly litigation and damages paid by City taxpayers. The Defendants will be still be able to address the desire to prohibit or control data center construction at all levels of government, and through the normal process allowed for changes to zoning controls, limiting any damage.

41. An injunction in this case would be in the public interest. The public has an interest in zoning that is established and predictable, and also that the city governing body acts in a knowledgeable and deliberate manner in addressing concerns. State law has provided rules that create planning commissions and methods of appeal that balance the needs of landowners with the needs of the public, and this action short-circuits that process. Uses of excessive power or water may be nuisances, but that cannot be focused on one specific type of use as opposed to other uses that may present the same problems. The city ordinance and zoning process can best address any such issues, limiting damage to the Defendants.

WHEREFORE, the Plaintiff requests that the Court grant judgment in this matter for the following:

- A. A determination via declaratory judgment regarding the Petition and ordinance therein, determining the Petition to be void and of no effect;
 - B. A determination via declaratory judgment that the designation of data centers as a prohibited nuisance use is a disguised attempt at a zoning prohibition, and the same is invalid;
 - C. A permanent injunction against passage of the Petition Ordinance, and prohibiting the submission to a vote of the City electors; and
 - D. Costs, interest and other charges allowable by law;
- and for such other and further relief as the Court deems just and equitable.

Respectfully Submitted,
STUMBO HANSON, L.L.P.

By: /s/ Todd A. Luckman
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Attorneys for Plaintiff

VERIFICATION

I hereby certify that I have read the above Petition, and that I, as the City Administrator of the City of Edgerton, Kansas, can verify that the contents thereof are true and correct to the best of my knowledge.

ELIZABETH A. LINN

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this _____ day of _____, 2026, before me, the undersigned, a notary public in and for the county and state aforesaid, came Elizabeth A. Linn, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

NOTARY PUBLIC

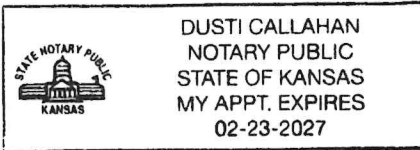
VERIFICATION

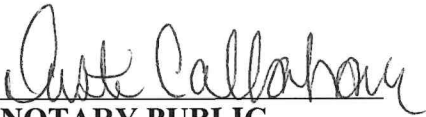
I hereby certify that I have read the above Petition, and that I, as the City Administrator of the City of Edgerton, Kansas, can verify that the contents thereof are true and correct to the best of my knowledge.


ELIZABETH A. LINN

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this 3 day of August, 2026, before me, the undersigned, a notary public in and for the county and state aforesaid, came Elizabeth A. Linn, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.




NOTARY PUBLIC