



## **Planning and Zoning Commission Meeting**

**October 10, 2023**

**7:00 p.m. – City Hall Council Chambers and Via Videoconference**

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**Anyone who wishes to view the meeting in real time may do so as it will be streamed live on the city's YouTube page through YouTube Live or may use the Zoom link below to access the meeting.**

- 1. Call to Order**
- 2. Approve the September 12, 2023, Planning Commission Minutes**
- 3. Staff Report**
- 4. Electric Vehicle Charging Regulations**

Proposes changes to the building codes to address electric vehicle charging standards

- 5. Short-term rental ordinance**

Proposal would add regulations to the short-term rental industry in Smithville

- 6. Adjourn**

Join Zoom Meeting

<https://us02web.zoom.us/j/85101343691>

Meeting ID: 851 0134 3691

Passcode: 528209



# SMITHVILLE PLANNING COMMISSION

## REGULAR SESSION

September 12, 2023

7:00 P.M.

City Hall Council Chambers and Via Videoconference

### 1. CALL TO ORDER

Chairman John Chevalier called the meeting to order at 7:00 p.m.

A quorum of the Commission was present: Alderman Melissa Wilson, John Chevalier, Dennis Kathcart, Rob Scarborough, Deb Dotson and Mayor Damien Boley. Billy Muessig was absent.

Staff present: Jack Hendrix and Brandi Schuerger.

### 2. MINUTES

The July 11, 2023, Regular Session Meeting Minutes were moved for approval by SCARBOROUGH, Seconded by MAYOR BOLEY.

Ayes 6, Noes 0. Motion carried.

### 3. STAFF REPORT

HENDRIX reported:

Since January we have issued 25 new residential building permits this year. 3 more permit applications are on Brandi's desk so we will be at 28 new residential permits once those are approved.

Fairview Crossing North is under construction. The permit has been issued for the 10 unit strip mall has been issued and all of their bonds are in place and will be moving forward.

It's anticipated that the Transfer Station Site Plan application will be submitted to the city in the next few weeks and will be presented to the Commission for their review at an upcoming meeting.

The new Comprehensive Plan Dashboard is now live on the City's website.

The Comprehensive Plan calls for us to do a SWAT analysis of the Accessory Dwelling Unit process and see how we want to handle it. In the coming months we will have a work session meeting without an advertisement on this subject to get this Commission's thoughts on the issue.

Also anticipated is a building code change to be brought forward about adding electric vehicle charging stations for multi-family zonings as well as a requirement that new single family homes have the infrastructure in place so that buyers don't have to tear the house up to install one.

ALDERMAN WILSON asked if we should look at requiring developments like Fairview Crossing to install a couple EV charging stations in their parking lots in the future?

HENDRIX stated that is the purpose behind bringing this forward for discussion. He would like to have this set up in the code so that when they want to build they are required to do it.

MAYOR BOLEY stated that he was recently talking with a business owner and they are getting incentives to install EV charging stations as well. Evergy is pushing for this and offering incentives for it.

HENDRIX stated that even if we don't require them to actually install the actual charging stations they need to at least have the infrastructure already installed to make it capable to install them in the future.

Mayor Boley stated that we recently got our assessed value numbers for the year. This is the second year it has been this way but commercial construction outpaced residential construction. We are now at \$280 million on assessed value. A couple of years ago we had just broke \$200 million.

#### **4. PUBLIC HEARING:**

- **AN AMENDMENT TO §425.180 OF THE SUBDIVISION CODE RELATED TO SUBDIVISION MAINTENANCE**

**Public Hearing Opened: None**

**Public Hearing Closed**

**5. SUBDIVISION MAINTENANCE PROVISIONS AMENDMENT §425.180 TO ADD STORMWATER SYSTEM MAINTENANCE**

- **CITY'S MS4 PERMIT REQUIRES ADDITIONAL ENFORCEMENT BY THE CITY CONCERNING STORMWATER SYSTEM MAINTENANCE AND THE PROPOSED CHANGES MEET THE NEW REQUIREMENTS**

MAYOR BOLEY motioned to approve the Subdivision Maintenance provisions amendment §425.180 to add Stormwater Maintenance. Seconded by KATHCART.

**DISCUSSION:**

HENDRIX informed the Commission that MS4 stands for Municipal Separate Storm Sewer Systems and it's a regulation from MODNR. The city was required to obtain a general permit in 2013 and following the 2020 Census' population over 10,000 triggered an individual permit instead of the general permit. This new individual permit brings forward several new requirements for the city related to our storm sewer system. If approved tonight by this Commission the ordinance will be on the Board of Aldermen meeting agenda on September 19<sup>th</sup> for first reading.

The commission discussed this agenda item. To view the discussion, click the following link: <https://www.youtube.com/watch?v=AMElvX2mci0>

**THE VOTE:** ALDERMAN WILSON-AYE, CHEVALIER-AYE, SCARBOROUGH-AYE, DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE.

**AYES-6, NOES-0. MOTION PASSED**

**6. PUBLIC HEARING:**

- **SHORT TERM RENTAL REGULATIONS**

**Public Hearing Opened:** None

**Public Hearing Closed**

## **7. SHORT TERM RENTAL ORDINANCE**

- **PROPOSAL WOULD ADD REGULATIONS TO THE SHORT TERM RENTAL INDUSTRY IN SMITHVILLE**

SCARBOROUGH recused himself from this discussion since he is an owner/operator of several short term rental units in Smithville. He is available as an expert witness if there are any questions.

MAYOR BOLEY motioned to discuss the Short Term Rental Ordinance. Seconded by CHEVALIER.

The commission discussed this agenda item. To view the discussion, click the following link:

<https://www.youtube.com/watch?v=AMElvX2mci0&t=1173s>

After this discussion it was suggested that Mr. Hendrix make revisions and bring the ordinance back to the Commission at the next meeting.

## **8. ADJOURN**

MAYOR BOLEY made a motion to adjourn. KATHCART seconded the motion.

VOICE VOTE: UNANIMOUS

CHAIRMAN CHEVALIER declared the session adjourned at 8:07 p.m.

<b>Date:</b>	October 3, 2023
<b>Prepared By:</b>	Jack Hendrix, Development Director
<b>Subject:</b>	Electric Vehicle Charging Spaces in new construction

With the significant deployment of new Electric Vehicles into the market, a new issue has arisen. Specifically, these new owners need to charge their vehicles, usually at home. Currently, homes are not generally constructed with EV's in mind, and rarely have the current ability to simply plug in and charge. The International Code Council worked for several months to coordinate a straightforward path to amend building codes to accommodate EV charging. The ICC versions have set up two distinct areas that need to be addressed: The electrical capacity for each charging space and the number of spaces necessary for multifamily spaces.

#### Capacity Requirements

The capacity standards are based primarily upon the types of charging stations available. There are generally three types: Level 1; Level 2 and Level 3 (Direct Current Fast Charging).

##### Level 1

Level 1 equipment provides charging through a common residential 120-volt (120V) AC outlet. Level 1 chargers can take 40-50+ hours to charge a BEV (fully electric vehicles) to 80 percent from empty and 5-6 hours for a PHEV (plug-in hybrid electric vehicles).

##### Level 2

Level 2 equipment offers higher-rate AC charging through 240V (in residential applications) or 208V (in commercial applications) electrical service, and is common for home, workplace, and public charging. Level 2 chargers can charge a BEV to 80 percent from empty in 4-10 hours and a PHEV in 1-2 hours.

##### Level 3 - Direct Current Fast Charging (DCFC)

Direct current fast charging (DCFC) equipment (usually between 400-1000V) offers rapid charging along heavy-traffic corridors at installed stations. DCFC equipment can charge a BEV to 80 percent in just 20 minutes to 1 hour. Most PHEVs currently on the market do not work with fast chargers.

The Level 3 charging is focused on the commercial aspects of charging and isn't required or necessary for standard overnight residential type charging. The new ICC

standards are focused upon residential type charging, be it in a single-family home, or in an apartment situation.

Obviously, a Level 1 charger is available for any standard outlet, so no building code amendments would be necessary. However, a Level 1 charger will only provide between 3-5 miles of charge per hour, or 30-50 in a standard overnight charge. With the continued growth of the EV presence, and more particularly the distance from most working centers for Smithville residents, Level 1 chargers are likely not feasible for most users. This leaves the Level 2 chargers as the most likely scenario for future EV owners. Most homes are not generally set up for easy access to installing a Level 2 charger. This will cause higher installation costs for Level 2 chargers in an existing home. Some of this cost can be reduced if these suggested amendments were in effect.

The new code identifies these spaces as EV Capable, or EV Ready and EVSE Installed. A Capable space has electrical panel capacity to handle one 40-50 amp 240 volt charger, with raceways/conduit installed to a convenient place for charging (the garage). EV Ready has the fuse and wiring installed, ready to simply plug and use the supply equipment. The EVSE Installed is a space that already has the electric vehicle supply equipment (EVSE) installed. Obviously, the cost of installing the fuse and wiring into an already prepared space is cheaper for the homeowner in the long run, so requiring at least an EV Capable space in all new homes makes sense. Multiple builders have liked the concept of providing EV Capable spaces for new homes, with the easy ability to upgrade and install the equipment and wiring to make it functional.

#### Number of EV Charging Spaces

The second aspect of the ICC draft changes relate to the number of spaces for charging needed in multifamily units. Keep in mind that the building code looks at multi-family versus single-family differently than the zoning code. IF the space requirement is added to the IRC for single-family, that would include duplexes, triplexes and other townhomes. The multi-family treatment in the building codes is the standard apartment complex or building. In those cases, providing the wiring in the garage isn't an option, so it would include outdoor parking spaces. The real question is the number of spaces, and the breakdown of each type. The ICC created a table that would fit into the code provisions directly and is laid out such that there are spaces to specifically identify the number of EVSE Installed spaces, the EV Ready spaces, and the EV Capable spaces. That table is laid out below, with a few changes to the number of spaces breakdown from the draft proposal changed (that proposal broke the space numbers down in increments of 5-15, with six different groups. A quick review of the ordinances of other cities indicates that each city addressed the matter after some discussion, as none seem to match.

## EVSE-INSTALLED, EV-READY AND EV-CAPABLE SPACE REQUIREMENTS

<u>Total Number of Parking Spaces</u>	<u>Minimum number or % of EVSE-Installed Spaces<sup>a</sup></u>	<u>Minimum number or % of EV-Ready Spaces<sup>b</sup></u>	<u>Minimum number or % of EV-Capable Spaces</u>
10			
<u>11-20</u>			
<u>21 - 45</u>			
<u>46+</u>	<u># or % of total parking spaces</u>	<u># or % of total parking spaces</u>	<u># or % of total parking spaces</u>

1. a. Where EVSE-Installed Spaces installed exceed the required values in Table R401.4.3, the additional spaces shall be deducted from the EV-Ready Spaces requirement.
2. b. Where EV-Ready Spaces installed exceed the required values in Table R401.4.3 the additional spaces shall be deducted from the EV-Capable Spaces requirement.

While preparing a draft ordinance for this discussion, we discovered that most of the cities that have implemented the changes have already adopted the 2021 ICC codes (were on the 2018) and to make the ordinances work with our versions, several other changes are required. If this concept is appropriate and recommended for approval, staff can finalize the actual changes to the various codes that would be required to make this work and not create any other problems with our existing codes before the Board of Aldermen would get the recommendation.





<b>Date:</b>	October 5, 2023
<b>Prepared By:</b>	Jack Hendrix, Development Director
<b>Subject:</b>	Short Term Rental Ordinance

I have revised the draft ordinance in accordance with our meeting in September. Specifically, the density limitations in 625.080.2 were amended to read:

The number of licenses issued for units located in an apartment building shall be one (1), or a maximum of 12.5% of the total units available, whichever is more.

I watched the recording of the meeting again to try to obtain clarification on one issue that was discussed – Apartment Complex vs. Apartment Building. While there was significant discussion on the matter, there was no specific recommendation, to the draft presented is for an apartment building, and not a complex. The current draft would limit each apartment building in a complex to 12.5% (one unit in an 8 unit) and the owner could not put all the units in one building of the complex.

I also made slight changes to the language to make sure that if someone didn't obtain the permit that they would be subject to the general punishment provisions of the code, which include daily violations penalties. The purpose was to make sure these instances were not subject to the first/second/third violation scenario of a permitted unit violating.

**BILL NO. XXXX-23**

**ORDINANCE NO. XXXX-23**

**AN ORDINANCE ENACTING A NEW CHAPTER 625 OF THE CODE OF ORDINANCES PERTAINING TO SHORT TERM RENTALS**

WHEREAS, the Planning and Zoning Commission, in July of 2023 began discussions concerning the impact of short-term rentals on the city; and,

WHEREAS, the Commission asked staff to conduct some additional research and to prepare a specific draft ordinance to be discussed at the September Planning and Zoning meeting; and,

WHEREAS, the Planning and Zoning Commission conducted a public hearing on the matter at its September meeting that was properly advertised in advance of the meeting; and

WHEREAS, following the Public Hearing, the Commission discussed the ordinance and recommended staff make several changes to be presented for their review at the next meeting; and,

WHEREAS, the Planning and Zoning Commission reviewed the proposed short term rental ordinance and recommends its' approval.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI AS FOLLOWS:

Section 1. That a new Chapter 625 be added to the Code of Ordinances to be read and numbered as follows:

**Chapter 625 Short Term Rentals**

**625.010 Definitions:**

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

**Short-Term Rental, Complete** is any independently complete dwelling unit in a detached single family dwelling unit, a two-family attached dwelling unit, townhouse or apartment that is available for rent for terms or periods of less than 30 consecutive nights.

**Short-Term Rental, Partial** Short-term rentals inside an owner-occupied primary residence of any type. (room rentals)

**Apartment** is any residential building that contains three or more attached units, excluding those defined as a Townhouse.

**Townhouse** is any single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on not less than two sides.

**625.020 Applicability:**

The standards of this article apply to short-term rental permits as defined herein. No Short-term Rental shall be operated in the city of Smithville except in compliance with this chapter.

**625.030 Responsible agent required:**

Each owner of a short-term rental property is responsible for compliance with all the provisions of this chapter. The owner may act as the Responsible Agent for the unit or may designate a person or company to serve as a Responsible Agent who will be jointly liable and responsible for compliance. The Owner and/or Responsible Agent shall have access and authority to assume management of the unit and take remedial measures to ensure compliance with all provisions herein. Any changes to the name, address, or telephone number(s) of the local Responsible Agent or owner must be submitted to the City within five (5) business days of the change(s).

**625.040 Business and occupation licenses required:**

Business and Occupation licenses as described in Section 610 of the Code of Ordinances are required for All Short-term Rentals, but owners or responsible agents may hold one business license for multiple permitted locations.

**625.050 Advertising requirements:**

The responsible agent shall provide a list of and links to advertisements on all online platforms and update the city within five (5) business days of any change(s). The occupation license number issued by the city shall be listed on all advertisements and online platforms. It shall be considered a violation of this ordinance to advertise online or offline without posting the occupation license number in a prominent place on such advertisement.

**625.060 Refuse collection:**

All short-term rentals shall maintain regular refuse collection services from the City in structures required to be included in the city utility bill, or from an otherwise licensed refuse collector in all other structures.

**625.070 Safety:**

In order to ensure the safety of the occupants and owners of any short-term rental unit, the following requirements must be included in the unit, including

any retrofitting required in an existing structure in order to meet the minimum building code requirements for the building where the unit is located.

1. Smoke and Carbon monoxide detectors are required in accordance with the building code as if the structure was new.
2. Ground-Fault Circuit interrupters and Arc-Fault circuit interrupters are required in accordance with the building code as if the structure was new.
2. Emergency contact information of the owner or manager must be permanently displayed in the unit and provided to the primary guest on file.
3. If the unit is in an apartment building, a fire escape path plan must be posted on any door that does not open to a yard or public way.
4. At least one operational fire extinguisher is required to be visible from and accessible to the kitchen area.

**625.080 Number of permits issued, density limited:**

In order to prevent a significant impact on the affordability of housing in the city of Smithville, the total number of permits licenses that may be issued at any time shall be limited to not more than 3% of the total housing stock within the city limits. In addition to the total number of licenses to be issued, the following density protections are required:

1. The number of licenses issued for units in any structure other than an apartment shall be limited to one per each block face. For purposes of this limitation, a block face shall be measured from intersection to intersection on any given street, and both sides of said street shall be included in this one block face.
2. The number of licenses issued for units located in an apartment *building/complex* shall be one (1), or a maximum of 12.5% of the total units available, whichever is more.
3. Any existing short-term rental shall be granted 60 days to obtain a permit for the short-term rental following ordinance approval notwithstanding these limitations on the number of permits. If the owner of any existing unit fails to file an application for such permit within the initial 60 days grace, these number and density limitations shall apply.

**625.090 Transient guest tax required:**

All short-term rentals must collect/remit a transient guest tax equal to that of hotels/motels within the city limits.

**625.100 Maximum number of guests:**

The total number of guests allowed per unit shall equal (2) adults per bedroom plus (2) adults in common living areas (sleeper sofa, air mattress, etc.).

**625.110 Events:**

Short-term rentals are prohibited from hosting weddings, banquets, parties, charitable fundraising, or other similar gatherings. Small, informal noncommercial gatherings of family and friends of short-term rental guests are permitted,

provided the gathering does not disturb the surrounding neighborhood, including but not limited to creating parking or noise issues.

**625.120 Insurance requirements:**

Short-term rental operators shall maintain liability insurance appropriate to cover the short-term rental use in the aggregate of not less than \$500,000 or conduct each short-term rental transaction through a platform that provides equal or greater insurance coverage.

**625.130 Transferability:**

The short-term rental permit shall be permitted to transfer upon the sale of the property. The requirements of 625.030 are applicable, and compliance is mandatory to affect the transfer of the permit.

**625.140 Noise management plan:**

All short-term rentals shall maintain a noise management plan. The noise management plan must include the continuous operation of noise monitoring device(s) while the registered property is rented. The on-site posting of the quiet hours and the penalties for violating the City noise ordinance shall be posted in a prominent location inside the short-term rental.

**625.150 Annual Rental permits and inspections required:**

A Short-Term Rental Permit is required for each such unit located within the City of Smithville. Lawful, Short-term rentals in existence prior to the adoption of this ordinance that obtain a permit within sixty (60) days of implementation of this ordinance are not subject to the initial inspection requirements, but full compliance is required, and inspections shall be required on any applications following those sixty days, including the renewal of the permit. All other rental units not in existence prior to the passage of this ordinance shall be inspected for compliance with this chapter and approved prior to issuance of a permit. All Rental inspections shall be conducted by City staff following approval of any application or renewal application and payment of the annual Short-term Rental permit fee of \$50.

**625.160 Applications required, contents:**

Applications for short-term rental permits must be made to the Development Department on forms provided by the department. Applications shall include the following information:

1. The name, phone number, and email address for the property owner and the responsible agent if different than owner.
2. The number of bedrooms and the total occupancy allowed in the unit.
3. A list of online platforms that will be used to solicit booking transactions for the dwelling unit, along with a link to each such platform's page for the unit. If any additions or changes to the list of platforms occur during the term of the

license, an updated list, with links must be sent to the Development Department within (5) business days of the change.

4. Certification that the property is current on all property tax and code violations fees/penalties. Certification may be in the form of a receipt from the County Collector for taxes.

5. The applicant must certify that the proposed dwelling unit is not subject to any contractual restrictions precluding the dwelling unit from being used for short-term rentals, including but not limited to homeowner association agreements, condominium bylaws, restrictive covenants, or building restrictions.

6. The owner shall provide a certificate of insurance in compliance with Section 625.120.

7. The owner shall provide a copy of the noise management plan in compliance with 625.140.

6. The owner, applicant and responsible agent must acknowledge that they will not discriminate in guest use or rental of a short-term rental and will comply with all applicable anti-discrimination laws, including but not limited to Title VII of the Civil Rights Act of 1968, the Fair Housing Act (FHA), and the Americans with Disabilities Act (ADA).

**625.170 Review and approval of short-term rental permit applications:**

After the submission of the application, City officials will review the application to determine that all requirements of this section and other codes have been, or can be, met. Upon approval of the initial application, the applicant must schedule an inspection of the rental unit to ensure compliance with all the requirements and codes as identified in this ordinance.

**625.180 Violation, penalties, and enforcement:**

It shall be unlawful for any person to violate any provisions or to fail to comply with any of the requirements of this section. Any person violating any of the provisions or failing to comply with any of the requirements of this Section is subject to the violation, penalty, and enforcement provisions of this section and Chapter 100.220 of this code.

The penalties for a permit holder for failing to comply with any of the requirements and provisions of this ordinance shall be as follows:

First Offense \$50.00

Second Offense \$200.00

Third Offense and each offense thereafter: \$500.00

**625.1190 Revocation of permit:**

In addition to any fine or penalty that may be imposed pursuant to any provision of this chapter, a short-term rental may be suspended or revoked as provided in this section. The City may suspend or revoke a short-term rental permit granted pursuant to this Chapter following a hearing for any violation of

the City Code or violation of this chapter. The Development Department shall commence the revocation proceedings if any of the following occur:

1. The short-term rental operator has been found guilty of two (2) or more offenses that occurred in a three (3) month period.
2. A short-term rental operator submits an application or other document as part of the short-term rental review process that contains or represents fraud, misrepresentation, or false information.
3. The short-term rental operator has violated or is currently violating this chapter that significantly endangers public health, safety, or welfare.
4. The short-term rental operator fails to report and pay transient guest tax, sales tax, or property taxes.
5. Notice of a public hearing pursuant to this section shall be given to a short-term rental operator in writing at the address shown on the short-term rental application and to the other parties identified in the short-term rental application. Such notice shall be mailed via regular mail at least fourteen (14) calendar days prior to the date set for the public hearing before the Planning Commission. At the revocation hearing, the Planning Commission shall consider the following:
  - a. The nature and seriousness of the violation.
  - b. Impact of the violation on the neighborhood or community.
  - c. Corrective action, if any, taken by the short-term rental operator or the designated Responsible Agent.
  - d. Prior violations.
  - e. The likelihood of recurrence of the violation or violations.
  - f. The entirety of the circumstances surrounding the violation.
  - g. Length of time the licensee has held a license.
  - h. The Planning Commission may either suspend for a specific term or revoke a Short-term Rental Permit by a simple majority vote of the Planning Commission.
  - i. The short-term rental operator can appeal the decision of the Planning Commission to the Board of Aldermen within 30 days.
  - j. The findings of the City Council shall be deemed final.

Section 2. This ordinance shall take effect and be in full force from and after its passage according to law.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading:

Second Reading: