



# **SMITHVILLE, MISSOURI**

## **Board of Aldermen - Regular Session**

*(Revised 1/17/2020)*

**7:00 p.m.**

**January 21, 2020**

**TABLE OF CONTENTS**

**AGENDA** ..... 3

**CONSENT AGENDA**..... 5

    BOARD OF ALDERMEN MINUTES – JANUARY 7, 2020 REGULAR SESSION ..... 6

**CITY ADMINISTRATOR’S REPORT** ..... 11

**CHANGES PERTAINING TO PUBLIC USE OF MEDICAL MARIJUANA**..... 13

**AMENDING VARIOUS SECTIONS OF THE MUNICIPAL CODE** ..... 21

**PARTICIPATION ON CRIME STOPPERS HOTLINE**..... 35

**AMENDMENT TO THE COMPENSATION PLAN** ..... 39

**LEAK ADJUSTMENT**..... 45

**GENERAL RELEASE AND SETTLEMENT AGREEMENT** ..... 52

**AGENDA**



**City of Smithville, Missouri  
Board of Aldermen – Regular Session Agenda  
January 21, 2020  
7:00 pm - Council Chambers**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Mayor Boley to Swear in Officer Brandon Taylor**
- 4. Consent Agenda**
  - **Minutes**
    - January 7, 2020 Board of Alderman Regular Session Minutes

**REPORTS FROM OFFICERS AND STANDING COMMITTEES**

- 5. Committee Reports**
  - Planning and Zoning Commission
- 6. City Administrator’s Report**

**ORDINANCES & RESOLUTIONS**

- 7. Bill No 2852-20, Changes Pertaining to Public Use of Medical Marijuana-  
2<sup>nd</sup> Reading**

An Ordinance to approve the recommended changes and additions to bring the current ordinances into alignment with the existing Constitutional Amendment and add four subsections to Chapter 205 that will address definitions, Public Use, Legal Possession and Production of Medical Marijuana Card on Request. 2<sup>nd</sup> reading by title only.

## Smithville Board of Aldermen

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- 8. Bill No 2853-20, Amending Various Sections of the Municipal Code - 1<sup>st</sup> Reading**  
An Ordinance amending and adopting various sections of the Code of Ordinances for the City of Smithville. 1<sup>st</sup> reading by title only.
- 9. Resolution 764, Crime Stoppers TIPS Hotline Program**  
A Resolution authorizing and directing the Mayor to execute a contract with the Kansas City Metropolitan Crime Commission to provide services to the City through participation in the TIPS Hotline Program.
- 10. Resolution 765, Amendment to the Compensation Plan**  
A Resolution to approve an amendment to the Compensation Plan for the Job Description and Duties of the Parks and Recreation Director.
- 11. Resolution 766, Leak Adjustment**  
A Resolution to approve a leak adjustment of \$73.51 for residential utility billing customer, David Parr for his December utility bill.
- 12. Resolution 767, General Release and Settlement Agreement**  
A Resolution authorizing the Mayor to sign a General Release and Settlement Agreement with Mitch and Laura McGuire relating to a water bill and release of connection to the city's utility system.

### OTHER MATTERS BEFORE THE BOARD

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- 13. Public Comment**  
Pursuant to the public comment policy, a Public Comment Card must be submitted to the City Clerk prior to the meeting. When recognized, please state your name, address and topic before speaking. Each speaker is limited to three (3) minutes.
- 14. New Business From The Floor**  
Pursuant to the order of business policy, members of the Board of Aldermen may request a new business item appear on a [future meeting agenda](#).
- 15. Adjourn**

**CONSENT AGENDA**



# City of Smithville

**Meeting Date:** January 21, 2020      **Department:** Administration

**Agenda Item:** Consent Agenda

**Summary:**  
Voting to approve would approve the Board of Aldermen minutes.

**Purpose:**  
The Board of Aldermen can review and approve by a single motion. Any item can be removed from the consent agenda by a motion. The following items are included for approval:

- Minutes**
- Approve the January 7, 2020 Board of Alderman Regular Session Minutes

<b>Impact</b>	
Comprehensive Plan:	N/A
Economic Development Plan:	N/A
Parks Master Plan:	N/A
Strategic Plan:	N/A
Capital Improvement Plan:	N/A
Budget:	N/A

**Legislative History:**  
N/A

**Suggested Action:**  
A motion to approve the consent agenda

**Attachments:**     Plans             Contract     Staff Report  
 Ordinance     Resolution     Minutes     Other:

# Smithville Board of Aldermen

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Board of Aldermen Minutes – January 7, 2020 Regular Session

## SMITHVILLE BOARD OF ALDERMEN REGULAR SESSION

January 7, 2020 7:00 p.m.  
City Hall Council Chambers

### 1. Call to Order

Mayor Boley called the meeting to order at 7:00 p.m. A quorum of the Board was present: Steve Sarver, Marv Atkins, Melissa Wilson, Jeff Bloemker and Josh Hurlbert. John Chevalier was absent. Staff present: Cynthia Wagner, Nickie Lee, Chuck Soules, Dan Toleikis, Jason Lockridge, Jack Hendrix and Linda Drummond.

### 2. Pledge of Allegiance lead by Bob Nance, Clay County Treasurer.

### 3. Consent Agenda

- **Minutes**
  - December 17, 2019 Board of Alderman Work Session Minutes
  - December 17, 2019 Board of Alderman Regular Session Minutes
- **Financial Report**
  - Finance Report for November 2019

No discussion.

Alderman Bloemker moved to approve the consent agenda. Alderman Atkins seconded the motion.

Ayes – 5, Noes – 0, motion carries. The Mayor declared the consent agenda approved.

## REPORTS FROM OFFICERS AND STANDING COMMITTEES

### 4. Committee Reports

None

### 5. City Administrator's Report

Cynthia gave an update on current City staffing. Chuck Soules, the new Public Works Director, started on Monday. He has been taking tours of the City and attending meetings. We are excited to have him on board.

The Police Department has two new officers, Colby Atkins started and was sworn-in in December. Brandon Taylor's first day was January 2. He will be sworn in on January 21. The Police Department still has two vacancies remaining. They have been conducting interviews and doing testing for the last six to eight weeks and

have some good candidates. They hope to have those vacancies filled very soon. In March, interviews will begin for patrol officer candidates to fill the vacant sergeant's position.

The Parks Department filled the vacant park's maintenance position this afternoon. Staff is working on updating the job description for the Parks Director, once that is complete the position will be posted.

The contractor has completed the wall and compaction work for the base for Amory Road. They should begin forming and pouring the concrete base later this week. The concrete will need to cure for seven days then we should be able to open the road for traffic. The two-inch overlay will be completed in the spring when the asphalt companies are up and running again.

MoDOT is hosting a Public Meeting on Wednesday, January 15, from 4:00 p.m. to 6:00 p.m. at Good Shepherd Catholic Church about adding additional lanes at the 188th Street and 169 Highway Intersection. Staff will be coordinating meetings with MoDOT staff about the City waterlines due to possible conflicts in that area.

The State announced the approved licenses and locations for medical marijuana facilities. A facility has been approved here in Smithville for cultivation. One application and three licenses were approved for the location at the Industrial Park off of Park Street. Over the next several weeks the State will be announcing the approved applications for dispensaries and manufacturers. There is one application for manufacturing and four for dispensaries in Smithville.

Comprehensive Plan Update Launch is scheduled for Monday, January 13, 6:30 p.m. Smithville HS cafeteria.

MML Westgate Division Meeting is Thursday, January 23, in Sugar Creek. If you are able to attend, please let Linda know. So far only, Mayor Boley has RSVP'd.

## **ORDINANCES & RESOLUTIONS**

### **6. Bill No. 2850-19, FY20 Budget Amendment No. 1 – 2<sup>nd</sup> Reading**

Alderman Hurlbert moved to approve Bill No. 2850-19, FY20 Budget Amendment No. 1 to

- add \$739,520 to the Combined Water and Wastewater Systems Fund capital projects expenditure budget for the FY19 carryover from the Influent Pump Station, Excess Flow Holding Tank, and Sewer Interceptor projects
- add \$371,600 to the Capital Projects Fund capital projects expenditure budget for the FY19 carryover from the South Commercial Trail and Sidewalks project
- add \$287,800 to the Combined Water and Wastewater System Fund professional services expenditure budget for the engineering of the Valve Box, Raw Water Pump Station, and Zebra Mussel Control project

- add \$228,120 to the Capital Projects Fund grant revenue budget for the Recreational Trails Program reimbursement for the Main Street Trail project
- add \$8,570 to the Capital Projects Fund capital project expenditure budget for the Downtown Streetscape East project
- add \$242,630 to the Capital Improvement Sales Tax Fund capital projects expenditure budget for the Downtown Streetscape East project
- add \$228,730 to the General Fund capital projects expenditure budget for the Downtown Streetscape East project

1<sup>st</sup> reading by title only. Alderwoman Wilson seconded the motion.

No discussion.

Upon roll call vote:

Alderman Atkins – Aye, Alderman Sarver – Aye, Alderwoman Wilson – Aye,  
Alderman Bloemker – Aye, Alderman Chevalier – Absent, Alderman Hurlbert – Aye.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No 2850-19 approved.

**7. Bill No. 2851-20, Parks and Recreation/Stormwater Sales Tax Ballot Language – Emergency Ordinance sponsored by Mayor Boley 1<sup>st</sup> & 2<sup>nd</sup> Readings**

Alderwoman Wilson moved to approve Bill No. 2851-20, to formally call for an election on the issue of implementing a 1/2-cent sales tax to fund parks and recreation and stormwater improvements. 1<sup>st</sup> reading by title only. Alderman Sarver seconded the motion.

No discussion.

Upon roll call vote:

Alderman Hurlbert – No, Alderman Chevalier – Absent, Alderman Bloemker – Aye,  
Alderwoman Wilson – Aye, Alderman Sarver – Aye, Alderman Atkins – Aye.

Ayes – 4, Noes – 1, motion carries. Mayor Boley declared Bill No 2851-20 approved first reading.

Alderman Bloemker moved to approve Bill No. 2851-20, to formally call for an election on the issue of implementing a 1/2-cent sales tax to fund parks and recreation and stormwater improvements. 2<sup>nd</sup> reading by title only. Alderwoman Wilson seconded the motion.

No discussion.

Upon roll call vote:

Alderman Bloemker – Aye, Alderman Chevalier – Absent, Alderman Hurlbert – No,  
Alderman Atkins – Aye, Alderman Sarver – Aye, Alderwoman Wilson – Aye.

Ayes – 4, Noes – 1, motion carries. Mayor Boley declared Bill No 2851-20 approved.

**8. Bill No. 2852-20, Changes Pertaining to Public Use of Medical Marijuana  
1<sup>st</sup> Reading**

Alderman Atkins moved to approve Bill No. 2852-20, for approval of the recommended changes and additions to bring the current ordinances into alignment with the existing Constitutional Amendment and add four subsections to Chapter 205 that will address definitions, Public Use, Legal Possession and Production of Medical Marijuana Card on Request. 1<sup>st</sup> reading by title only. Alderwoman Wilson seconded the motion.

No discussion.

Upon roll call vote:

Alderwoman Wilson – Aye, Alderman Sarver – Aye, Alderman Atkins – Aye,  
Alderman Hurlbert – Aye, Alderman Chevalier – Absent, Alderman Bloemker – Aye.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No 2852-20 approved first reading.

**9. Resolution 760, Final Plat – First Park**

Alderman Sarver moved to approve Resolution 760, for approval of final plat for First Park industrial development at 14816 169 Highway. Alderman Hurlbert seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 760 approved.

**10. Resolution 761, Amendment No. 2 to Engineering Authorization No. 79**

Alderman Bloemker moved to approve Resolution 761, for approval of Amendment No. 2 to Engineering Authorization No. 79 with HDR, Inc. to include design work for Phase 2 of the Downtown Streetscape project to include Heritage Park Basketball court improvements. Alderwoman Wilson seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 761 approved.

**11. Resolution 762, Engineering Authorization No. 89**

Alderman Atkins moved to approve Resolution 762, for approval of Engineering Authorization No.89 with HDR, Inc. for design of a valve box, raw water pump station and zebra mussel control work as outlined in the water masterplan. Alderman Hurlbert seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 762 approved.

**12. Resolution 763, Contract with Right Of Way Associates for Easement Acquisition Related to South Interceptor**

Alderwoman Wilson moved to approve Resolution 763, for approval of a contract with Right of Way Associates to complete work relating to easement acquisition related to the South Interceptor sewer project. Alderman Hurlbert seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 763 approved

**OTHER MATTERS BEFORE THE BOARD**

**13. Public Comment**

None

**14. Appointment  
Economic Development Committee**

Mayor Boley nominated Carol Noecker.

By roll call vote:

- Alderman Bloemker - Aye
- Alderman Chevalier - Absent
- Alderman Hurlbert – Aye
- Alderman Atkins - Aye
- Alderman Sarver - Aye
- Alderwoman Wilson – Aye

Ayes – 5, Noes – 0, motion carries. The Mayor declared Carol Noecker a member of the Economic Development Committee. She will be replacing Scott Pearson.

**15. New Business from the Floor**

None

**16. Adjourn**

Alderman Hurlbert moved to adjourn. Alderman Sarver seconded the motion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned at 7:12 p.m.

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Linda Drummond, City Clerk

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Damien Boley, Mayor

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CITY ADMINISTRATOR'S REPORT

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## City Administrator's Report

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January 16, 2020

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### Comprehensive Plan Launch

We had good turnout and participation for the launch of the Comprehensive Plan on Monday night. Jack Hendrix and I continue to work with Future iQ in development of the process. At this point, February work will include a survey of citizens relating to priorities and preferences and a day (specific date to be determined) of intense task force work. March will be a time with a great deal of community work on the process, with the week of March 23 to 27 currently targeted for more on-site work relating to the pillars. Additional meeting dates tentatively scheduled are Monday, May 11 and Monday, August 10. As information is available, we will update you and provide an update on the project page on the City's website,

<https://www.smithvillemo.org/pview.aspx?id=20795&catid=70>

### Amory Road Update

Amory Road will NOT open this week. Additional concrete work was necessary and installation of guardrails to make the road traffic ready. The necessary work is underway in accordance to the current plan. The road should be open to traffic late next week.

### MoDOT Project Update

On Wednesday, Chuck Soules, Jack Hendrix, Bob Lemley and I met with MoDOT representatives to discuss upcoming projects, including the proposed work at 169 Highway and 188<sup>th</sup> Street and safety improvements planned for Route 92. We will have utility relocation work necessary for the 169 Highway project and will likely bring an authorization forward for approval of engineering work by HDR for that work in the coming weeks. Interlocal agreements with MoDOT are also anticipated to come for Board action in the coming months relating to both projects. Specific information on the 169 work may be found at the following link: <https://www.modot.org/route-169->

## **Smithville Board of Aldermen**

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[188th-street](https://www.modot.org/route-92-roadway-safety-improvement-project) and information regarding Route 92 work may be found here:  
<https://www.modot.org/route-92-roadway-safety-improvement-project>

### **Marketplace Transfer of Land**

As you will recall, in June, the Board approved sale of property within the TIF. Per the TIF agreement, sale must receive written approval from the City. At the time of this approval, it was indicated that two additional lots were anticipated to be sold and it was recommended that these sales be approved administratively by the City Administrator unless there were substantial changes to the plans which would require Board approval.

We have been notified by the developer that they now plan to sale Lot 3 to be used for an 8,000 square foot, multi-tenant retail space. I plan to approve this sale, unless there are questions or concerns by the Board.

### **State of the Cities Luncheon**

Save the date for the Northland/Clay County EDC State of the Cities Luncheon – February 28 from 11:30 to 1:00 at Harrah’s. If you wish to attend, please let Linda know.

**CHANGES PERTAINING TO PUBLIC USE OF MEDICAL MARIJUANA**



# City of Smithville

**Meeting Date:** January 21, 2020

**Department:** Police

**Agenda Item:** Bill No. 2852-20, Changes and Additions to Marijuana Ordinances – Second Reading

**Summary:**

This bill is recommended to bring current ordinances into alignment with the existing Constitutional Amendment and add four subsections to Chapter 205 that will address definitions, Public Use, Legal Possession and Production of Medical Marijuana Card on Request.

**Purpose:**

Amendment 2 (Medical Marijuana) passed in Missouri on November 6, 2018. This has caused staff and legal counsel to review and evaluate existing ordinances. A few neighboring communities, including North Kansas City and Pleasant Valley, have already made changes to their existing ordinances. Other communities are taking a wait-and-see approach.

Two Sections, 205.1800 and 205.1810, are in need of minor changes, adding reference to Missouri Constitution Article XIV.

This bill also adds four additional subsections: Definitions, Public Use of Marijuana, Legal Possession of Marijuana, and Production of Medical Marijuana Card on Request.

Section 205.1801 provides a definition for the sections that follow.

Section 205.1802 prohibits use of marijuana, medical or other, in public places. This is a provision of Amendment 2 as passed in 2018.

Section 205.1803 defines Legal Possession of Marijuana under multiple scenarios.

Section 205.1804 creates the offense of failure to provide medical marijuana identification card as on request. This is a provision of Amendment 2 as passed in 2018.

These changes will better prepare the City, and the Police Department, to address issues that may arise with the implementation of Medical Marijuana in Missouri. Section 205.1802 will allow the Smithville Police Department to address use of marijuana in public locations, such as public parks, parking lots and sidewalks. Section 205.1804 will allow the Smithville Police Department to address issues when an individual is in possession of medical marijuana but cannot produce his/her medical marijuana card as required by the Amendment.

## Smithville Board of Aldermen

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Attached is Exhibit A, a copy of the current municipal code 205.1800 Possession of Marijuana and Synthetic Cannabinoids and municipal code 205.1810 Possession of Controlled Substance.

**Impact:**

Comprehensive Plan:	N/A
Economic Development Plan:	N/A
Parks Master Plan:	N/A
Strategic Plan:	N/A
Capital Improvement Plan:	N/A
Budget:	N/A

**Legislative History:**

Missouri Amendment 2 was passed on November 6, 2018.

**Suggested Action:**

Motion to approve Bill No. 2852-20 for second reading by title only.

**Attachments:**    Plans       Contract       Staff Report  
 Ordinance       Resolution       Minutes       Other: Exhibit A

BILL NO. 2852-20

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE OF THE CITY OF SMITHVILLE REPEALING §205.1800 & §205.1810 AND ENACTING IN THEIR PLACE NEW SECTIONS 205.1800 & 205.1810 AS WELL AS SECTIONS 205.1801, 205.1802, 205.1803 & 205.1804 REGARDING THE POSSESSION AND/OR USE OF MARIJUANA**

WHEREAS, the Current Versions of Section 205.1800 Possession of Marijuana or Synthetic Cannabinoid; and Section 205.1810 Possession of a Controlled Substance are attached hereto as **Exhibit A** and incorporated as if more fully set forth herein verbatim.

WHEREAS, pursuant to a vote of the people, the Medical Marijuana Constitutional Provision Article XIV was adopted.

WHEREAS, the City believes it is in the best interest of its citizens that marijuana for medical use not be allowed to be consumed in public by a qualifying patient as set forth in Article XIV.

WHEREAS, nothing in these Ordinances are designed to amend the law with regard to consumption or possession of marijuana for any use other than by a qualifying patient for medical use as set forth in the Constitutional Provision.

WHEREAS, the driving under the influence of marijuana is dangerous to the individual involved as well as the public at whole, and any other Ordinances of this City regarding the driving under the influence of marijuana are not modified hereby.

WHEREAS, the City Attorney has recommended that Ordinances under Chapter 205 Article XI be amended or adopted in the following form:

Section 205.1800 Possession of Marijuana or Synthetic Cannabinoid. [1]

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in Section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579, Chapter 195, RSMo.[2], Mo. Const. Art. XIV or this Chapter.

[1] Note: Under certain circumstances this offense can be a felony under state law.

[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

Section 205.1810 Possession of a Controlled Substance. [1]

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.[2], Mo. Const. Art. XIV or this Chapter.

[1] Note: Under certain circumstances this offense can be a felony under state law.

*[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.*

*Section 205.1801—Definitions*

*For the purpose of this Chapter, "marijuana", "marihuana", "marijuana-infused products", "medical marijuana", "medical marijuana facility", "qualifying patient", "primary caregiver" and "public place" shall have the definitions set forth in Article XIV of the Missouri Constitution, state regulations relevant thereto and otherwise in this Chapter.*

*Section 205.1802—Public Use of Marijuana prohibited*

- 1. No person including a "qualifying patient" shall be allowed to consume marijuana," "marihuana," "marijuana-infused products," "medical marijuana," in a public place.*
- 2. "Public place" shall mean any public or private property, or portion of public or private property, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses.*
- 3. For purposes of designating a non-public place within a public place, the owner or entity with control of any such property may, but is not required to, provide one or more enclosed, private spaces where one qualifying patient and, if required by the owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient's primary caregiver, and/or the qualifying patient's physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient's use of medical marijuana in that space.*

*Section 205.1803—Legal Possession*

*Legal Possession of Marijuana.*

- (1) No person shall possess or have under his/her control any amount of marijuana, except the following:
  - (a) A qualifying patient for their own personal use, in an amount no greater than Missouri law allows; or**

- (b) *A primary caregiver for a qualifying patient(s), but only when transporting medical marijuana to a qualifying patient or when accompanying a qualifying patient(s); or*
- c) *An owner or employee of a state licensed medical marijuana facility while on the premises of said facility, or when transporting to a qualifying patient's or primary caregiver's residence or another state licensed medical marijuana facility.*

*Section 205.1804—Production of medical marijuana card*

*Failure to produce medical marijuana identification card. Any person in possession of medical marijuana shall, immediately upon request of any law enforcement officer, produce a valid identification card issued by the Missouri Department of Health and Senior Services, or its successor, authorizing them, as a qualifying patient or primary caregiver, or employee of a licensed medical marijuana facility, to access medical marijuana as provided by Missouri law. Any person who fails to produce such identification card shall be guilty of violating this Section.*

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

Effective immediately Sections 205.1800 and 205.1810 of the Municipal Code of the City of Smithville Missouri are repealed and new sections 205.1800 and 205.1810 are enacted, along with Sections 205.1801, 205.1802, 205.1803 and 205.1804 which shall read as follows:

Section 205.1800 Possession of Marijuana or Synthetic Cannabinoid. [1]

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in Section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579, Chapter 195, RSMo.[2], Mo. Const. Art. XIV or this Chapter.

[1] Note: Under certain circumstances this offense can be a felony under state law.

[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

Section 205.1810 Possession of a Controlled Substance. [1]

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.[2], Mo. Const. Art. XIV or this Chapter.

[1] Note: Under certain circumstances this offense can be a felony under state law.

[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

### Section 205.1801—Definitions

For the purpose of this Chapter, “marijuana”, “marihuana”, “marijuana-infused products”, “medical marijuana”, “medical marijuana facility”, “qualifying patient”, “primary caregiver” and “public place” shall have the definitions set forth in Article XIV of the Missouri Constitution, state regulations relevant thereto and otherwise in this Chapter.

### Section 205.1802—Public Use of Marijuana prohibited

1. No person including a “qualifying patient” shall be allowed to consume marijuana,” “marihuana,” “marijuana-infused products,” “medical marijuana,” in a public place.
2. “Public place” shall mean any public or private property, or portion of public or private property, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses.
3. For purposes of designating a non-public place within a public place, the owner or entity with control of any such property may, but is not required to, provide one or more enclosed, private spaces where one qualifying patient and, if required by the owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient’s primary caregiver, and/or the qualifying patient’s physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient’s use of medical marijuana in that space.

### Section 205.1803—Legal Possession

#### Legal Possession of Marijuana.

- a. No person shall possess or have under his/her control any amount of marijuana, except the following:
  - (1) A qualifying patient for their own personal use, in an amount no greater than Missouri law allows; or
  - (2) A primary caregiver for a qualifying patient(s), but only when transporting medical marijuana to a qualifying patient or when accompanying a qualifying patient(s); or
  - (3) An owner or employee of a state licensed medical marijuana facility while on the premises of said facility, or when transporting to a qualifying

patient's or primary caregiver's residence or another state licensed medical marijuana facility.

**Section 205.1804—Production Of Medical Marijuana Card**

Failure to produce medical marijuana identification card. Any person in possession of medical marijuana shall, immediately upon request of any law enforcement officer, produce a valid identification card issued by the Missouri Department of Health and Senior Services, or its successor, authorizing them, as a qualifying patient or primary caregiver, or employee of a licensed medical marijuana facility, to access medical marijuana as provided by Missouri law. Any person who fails to produce such identification card shall be guilty of violating this Section.

PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST

\_\_\_\_\_  
Linda Drummond  
City Clerk

First Reading: 01/07/2020  
Second Reading 01/21/2020

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
Damien Boley, Mayor

**Exhibit A**

**Section 205.1800 Possession of Marijuana or Synthetic Cannabinoid. [1]**

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in Section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579 or Chapter 195, RSMo.[2]

[1] Note: Under certain circumstances this offense can be a felony under state law.

[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

**Section 205.1810 Possession of a Controlled Substance. [1]**

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.[2]

[1] Note: Under certain circumstances this offense can be a felony under state law.

[2] State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

**AMENDING VARIOUS SECTIONS OF THE MUNICIPAL CODE**



# City of Smithville

**Meeting Date:** January 21, 2020

**Department:** Administration

**Agenda Item:** Bill No. 2853-20, Updating the City Code of Ordinances

**Summary:**

The ordinance would update the Code of Ordinances to be consistent with the current Missouri Statutes.

**Purpose:**

City staff and Counsel worked with General Code, the company that publishes the City’s Code of Ordinances in order to update our Codes to be consistent with state statute. This process has not been done for more than 20 years and was long over-due.

General Code provided a “Editorial and Code Analysis” document regarding the “Recodification Project”. Staff and General Code reviewed the Editorial and Code Analysis and indicated whether or not staff was comfortable with the changes proposed in certain areas. Counsel then reviewed the document completed by General Code including the review by staff and answered questions previously unanswered by staff and reviewed the thoughts of staff in working with General Code. Counsel and staff convened to review the Editorial and Code Analysis and made the necessary changes.

The changes to the provisions in Chapter 400 pertaining to the zoning code required a public hearing before the Planning Commission, which was held January 14. The Commission recommended approval of all zoning code changes.

Attached is a memo from attorney Scott Sullivan outlining the changes recommended as a result of this review.

This update will also allow the us to bring the Municipal Code of Ordinances on the City website up to date.

**Impact:**

- Comprehensive Plan: n/a
- Economic Development Plan: n/a
- Parks Master Plan: n/a
- Strategic Plan: n/a
- Capital Improvement Plan: n/a
- Budget: n/a

**Legislative History:**

N/A

## Smithville Board of Aldermen

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**Suggested Action:**

A motion to approve Bill No. 2853-20 to update the City Code of Ordinances - First Reading by Title Only.

**Attachments:**    Plans             Contract     Staff Report

Ordinance     Resolution     Minutes     Other:    Memo from Scott  
Sullivan and [Code Revisions](#)

[Link to Proposed Code Revisions](#)

**PROPOSED CODE ADOPTION ORDINANCE**  
**for the CODE OF ORDINANCES OF THE**  
**CITY OF SMITHVILLE, MISSOURI**  
**October 2019**

GENERAL CODE  
[www.generalcode.com](http://www.generalcode.com)  
toll-free: 1-800-836-8834

**BILL NO. 2853-20**

**ORD. NO. \_\_\_\_\_**

**AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF SMITHVILLE, COUNTY OF CLAY, STATE OF MISSOURI; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES; PROVIDING PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE**

Be it ordained by the Board of Aldermen of the City of Smithville, County of Clay, State of Missouri, as follows:

**Section 1. Approval, Adoption and Enactment of Code.**

Pursuant to Section 71.943 of the Revised Statutes of Missouri, the codification of ordinances, as set out in Titles I through VII, each inclusive, of the "Code of Ordinances of the City of Smithville, County of Clay, State of Missouri," is hereby adopted and enacted as the "Code of Ordinances of the City of Smithville"; which shall supersede all other general and permanent ordinances of the City passed on or before October 15, 2019, to the extent provided in Section 3 hereof.

**Section 2. When Code Provisions Effective.**

All provisions of such Code shall be in full force and effect from and after the effective date of this ordinance as set forth herein.

**Section 3. Repeal of Legislation Not Contained in Code; Legislation Saved From Repeal; Matters Not Affected By Repeal.**

- A. All ordinances of a general and permanent nature of the City adopted on final passage on or before October 15, 2019, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this ordinance, except those which may be specifically excepted by separate ordinance, and except the following which are hereby continued in full force and effect, unless specifically repealed by separate ordinance:
1. Ordinances promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds or notes of the City or any other evidence of the City 's indebtedness, or authorizing any contract or obligation assumed by the City.
  2. Ordinances levying taxes or making special assessments.
  3. Ordinances appropriating funds or establishing salaries and compensation, and providing for expenses.
  4. Ordinances granting franchises or rights to any person, firm or corporation.

5. Ordinances relating to the dedication, opening, closing, naming, establishment of grades, improvement, altering, paving, widening or vacating of streets, alleys, sidewalks or public places.
  6. Ordinances authorizing or relating to particular public improvements.
  7. Ordinances respecting the conveyances or acceptance of real property or easements in real property.
  8. Ordinances dedicating, accepting or vacating any plat or subdivision in the City or any part thereof, or providing regulations for the same.
  9. Ordinances annexing property to the City.
  10. All zoning and subdivision ordinances not specifically repealed and not included herein.
  11. Ordinances establishing TIF districts or redevelopment districts.
  12. Ordinances relating to traffic schedules (e.g., stop signs, parking limits, etc.).
  13. All ordinances relating to personnel regulations (e.g., pensions, retirement, job descriptions and insurance, etc.).
  14. Ordinances authorizing the establishment of industrial development corporations.
  15. Ordinances establishing tax rates for the City.
  16. Ordinances relating to the City Policy Manual.
- B. The repeal provided for in this Section shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.
- C. The repeal provided for in this Section shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such date.

**Section 4. Amendments To Code.**

Any and all additions and amendments to such Code when passed in such form as to indicate the intention of the Board of Aldermen to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Smithville" shall be understood and intended to include such additions and amendments.

**Section 5. Violations and Penalties.**

- A. Except as hereinafter provided, whenever in any rule, regulation or order promulgated pursuant to such ordinances of the City, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such City ordinance, rule, regulation or order doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such ordinance of the City, or of any rule, regulation or order promulgated pursuant to such City ordinance, shall be punished by a fine of

## **Smithville Board of Aldermen**

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not less than five dollars (\$5.00) and not more than five hundred dollars (\$500.00) or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

- B. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of these ordinances or rules, regulations or orders promulgated pursuant thereto to a fine of less amount than that provided in this Section or imprisonment for a shorter term than that provided in this Section, the violation of such particular provision of these ordinances or rules, regulations or orders shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized, or by both such fine and imprisonment.
- C. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State establishes a penalty differing from that provided by this Section for an offense similar to any offense established by these ordinances, rules, regulations or other orders of the City, the violation of such City law, ordinance, rule, regulation or order shall be punished by the fine or imprisonment established for such similar offense by such State law.
- D. Each day any violation of these ordinances, rules, regulations or orders promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.
- E. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

### **Section 6. Applicability of General Penalty.**

In case of the amendment by the Board of Aldermen of any Section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance shall apply to the Section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another Section in the same Chapter, the penalty so provided in such other Section shall be held to relate to the Section so amended, unless such penalty is specifically repealed therein.

### **Section 7. Filing of Copy of Code; Codes To Be Kept Up-To-Date.**

A copy of such Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the Board of Aldermen to make the same part of such Code when the same have been printed or reprinted in page form and to extract from such Code all provisions which from time to time may be repealed by the Board of Aldermen. This copy of such Code shall be available for all persons desiring to examine the same.

### **Section 8. Altering or Tampering With Code; Violations and Penalties.**

It shall be unlawful for any person to change or alter by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Smithville to be misrepresented thereby. Any person violating this Section shall be punished as provided in Section 5 of this ordinance.

**Section 9. Severability.**

It is hereby declared to be the intention of the Board of Aldermen that the Sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or Section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this ordinance or the Code hereby adopted.

**Section 10. Public Hearing for Changes to Chapter 400**

It is a state law and city code requirement that any changes to the zoning code provisions in Chapter 400 first be presented to the Planning Commission for a recommendation, following a public hearing in front of that body. That hearing occurred on January 14, 2020, and the Commission recommended approval of the changes presented.

**Section 11. Effective Date.**

This ordinance and the Code adopted hereby shall become effective \_\_\_\_\_, 20\_\_.

PASSED by the Board of Aldermen of the City of Smithville this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

APPROVED by the Mayor of the City of Smithville this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Mayor of the City of Smithville

ATTEST:

\_\_\_\_\_  
City Clerk

*Memo*

**To:** Smithville Board of Aldermen and City Administrator

**From:** Scott Sullivan

**Date:** November 15, 2019

**Re:** Update of City Code

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Thank you for the opportunity to participate in working with Staff and General Code to complete a major update of the City's Code for the first time in over 20 years. Obviously there have been substantial changes along the way, but this is the first significant revisiting of the Code as a whole since the 1991 Code was adopted.

By this memo, I intend to provide an overview to you of the changes to the Code.

Generally, the current structure of the Code is maintained as is, but obviously there have been numerous updates to the Statutes amongst other changes, and this rewrite is intended to bring your Code up to date throughout.

For your information, the process went as follows:

1. General Code provided a "Editorial and Code Analysis" document regarding the "Recodification Project".
2. Staff and General Code went over the Editorial and Code Analysis and indicated whether or not staff was comfortable with the changes proposed in certain areas.
3. Counsel then reviewed the document completed by General Code including the review by staff and answered questions previously unanswered by staff and reviewed the thoughts of staff in working with General Code.
4. Counsel and staff convened to review the Editorial and Code Analysis.
5. Conclusions were provided to General Code on the actions to take to update the Code.
6. General Code provided some updated questions and issues for the City's review.
7. Counsel reviewed the additional considerations and met with staff to review.
8. Final responses were provided to General Code.
9. Lastly, General Code provided the final version of the Code.

**CHAPTER 100 – GENERAL PROVISIONS**

- I. Some items in Chapter 100 were moved a bit, but the general structure remains the same. The first chapter begins with several new sections to be discussed below. General Code suggested that we modify some language with regard to our penalty provisions given changes in Missouri Law regarding minor traffic violations and certain “ordinance violations”. Rather than adopting their proposed ordinance, which would require us to make changes if there were other revisions to the statute, we made a general revision to incorporate whatever the terms of the current or any future statutes that are relevant to be included in our ordinance. That way, the ordinance will always be current.
- A. **Details:** The City will adopt some sample code sections provided by General Code starting with Section 100.010 through 100.220. The new sections essentially adopt things that tend to start most codes, such as a general statement that the City is a body corporate, can own property, can dispose of property, adopts a City seal and describes that the City will have a code which can be amended or altered from time to time. It also provides definitions (only) that are fairly obvious but were not in the document before such as “Board of Aldermen”, “Mayor”, “Real Property”, “State in Writing”. These Sections also indicate that any of the code sections are “severable” meaning that if one section is declared unconstitutional, it does not the remaining sections. They also describe what is meant by a “Notice” and how notices can be delivered. They also indicate that it is intended to be gender neutral and has some other very generic provisions that are generally found in every code. Lastly, they contain the general penalty provision, which was previously in a different section, incorporating the changes that we wanted limiting our ability to collect fines, when limited by statute. The other sections, such as reimbursement of expenses for the Mayor and Aldermen were moved to Chapter 130. Frankly, the additions in Section 100 incorporate changes that would likely be found in every other code.

**CHAPTER 105 – CITY OFFICIALS**

- I. The only changes in Chapter 105 were to omit a reference to the City Treasurer and to reflect that the City Clerk is appointed.

**CHAPTER 110 – MUNICIPAL COURT**

- I. The only significant changes to Chapter 110 was to put in a provision that worked in conjunction with the transfer of the Municipal Court to Clay County alleviating the necessity of making some of the changes suggested by General Code.
  - A. **Details:** Some cross references have been made to be consistent with statutes and to incorporate statutes. It allows the Municipal Judge to stop proceedings and transfer them to a different Court where appropriate. Normally this would relate to alcohol offenses and/or prior offenders. Please remember that the vast majority of the changes suggested were not relevant since we’ve already transferred the Court to Clay County, and adopted the needed Ordinances

**CHAPTER 125 – EMERGENCY MANAGEMENT AGENCY**

- I. Contains revisions from our previous Code, but the changes are minimal. There are the removal of some provisions which are otherwise covered by Chapter 44 of the Revised Statutes of Missouri regardless. We retain the authority of the City Administrator to appoint the Director of the Emergency Management Agency, and it continues to grant us authority to enter into contract, utilize and obtain equipment in responses to natural disasters, which

will allow us to received State or Federal funds. The provision also specifically grants us authority to enter into mutual aid agreements with other entities. Statutorily we would have authority for mutual aid agreements anyway, but this expressly incorporates those abilities into our ordinances.

### CHAPTER 140 – FINANCE AND TAXATION

- I. In Chapter 140 regarding Finance and Taxation, the corrections/changes are simply cleanup to cross reference to the correct statutory sections or to change the date of the City’s fiscal year. It essentially is clean-up.
  - A. **Details:** The changes include inserting November 1 as the beginning of the City’s fiscal year, changes some statutory cross-references and revising Section 140.100 with regard to interest and penalties on delinquent taxes (2% per month, not to exceed 18% annually) and to incorporate a statute that discusses items such as when mailed items are “deemed” received, i.e.: when deposited in the U.S. Mail, the post date on the envelope is the date we “received” the payment.

### CHAPTER 200 – POLICE DEPARTMENT

- I. There were only a couple changes in Chapter 200, the first being to change references from “Chief of Public Safety” to “Chief of Police” throughout the code. Also, it incorporates information/language from R.S.Mo. 70.820 granting peace officers authority to respond to emergency situations outside their boundaries. Again, it relates to mutual aide, and again this only references emergency situations. As a reminder, we want to make absolutely sure that we have our mutual aid agreements in place with all of our surrounding cities and counties as well as any other cities with whom we may need to work.

### CHAPTER 205 - OFFENSES

- I. The changes again are merely to make our ordinances consistent with recent revisions to State Law. It does not effect, and in fact continues to include, the reference to conceal carry. It does broaden the unlawful use of the weapon to include discharging a firearm within 100 yards of an occupied schoolhouse and similar changes. It allows the open carry of firearms which was previously prohibited as an unlawful use of a weapon.
  - A. One other note on Section 205.1900, this Section is going to be modified to include statutory language regarding labeling of kegs, and its going to be moved to Chapter 600. As you recall, Chapter 600 is the Alcoholic Beverage Section which was rewritten and approved by the Board earlier this year.
  - B. The balance of the changes throughout Chapter 200 were nominal changes including modifying of the things such as modifying a definition to be consistent with the statutory definition, changing “misdemeanor” to read “ordinance violation” and items of that nature.
  - C. **Details:**
    - 1. Section 205.420 was modified to require drivers to obey reasonable signals or directions of a law enforcement officer. There were a couple of other insignificant changes such as incorporating changes from statutes in the definition of “metal” or “scrap metal” to read “materials”.

2. Section 205.135 Requiring an arrest on a repeat domestic violence call, when an arrest earlier in the day was previously declined.
3. The revisions to Section 205.840 are made to incorporate statutory revisions, and includes one significant substantive change, in that it authorizes the open carry of guns at any time, rather than just allowing open carry for persons with CCW permits. Our current code prevented any open carry. We still have the authority to prevent open carry for someone who does not have a CCW permit, but a person with a CCW permit has a right to carry a weapon openly.
4. Section 205.1570 regulating gambling to some extent is preempted by statute and therefore parts of this sections (a) (3) through (5) were deleted.

**CHAPTER 208 – BODY PIERCING AND TATTOOING ON MINORS — REGULATIONS**

- I. With regard to regulations on body piercing, or tattooing on minors, the changes were made to incorporate new statutory definitions and referencing parental consent.

**CHAPTER 215**

- I. With regard to nuisances there have been some updates made to be consistent with statutory changes.

**CHAPTER 245**

- I. With regard to solid waste management, revisions were made to update definitions that were in our previous Chapter with statutory definitions of things such as “solid waste” and “yard waste”. Again, these changes are cleanup type of changes and not of great significance, but do make our ordinances consistent with State Statutes.

**CHAPTER 300**

- I. General Code proposed having the City adopt their entire single traffic code. This was not done, as the only real purpose of the having this completed would be to have our code match what General Code uses as its general sample. The problem with making wholesale changes of this nature is that many things would be left out inadvertently, particularly with regard to only locally relevant issues, and code sections get moved around for no reason other than the convenience of General Code. As such we did not adopt their entire sample but made the specific changes that needed to be made. For example, statutes have changed with regard to construction and work zones to add other terms.

**CHAPTER 380 – VEHICLE EQUIPMENT**

- I. Chapter 380 has a minor amendment to correct a reference to “when lighted lamps are required”.

**CHAPTER 385 – LICENSES**

- I. **Details:**
  - A. Section 385.080 is modified to be consistent with current law with regard to the display of license plate, transparent covers, and the like. would be adopted regarding the dimming of lights on a vehicle.
  - B. Section 385.110 is updated to be consistent with state law regarding transfer of title upon sale of the vehicle.
  - C. Sections 385.130 and 385.140 regarding removal of plates on the transfer of vehicle and sale by dealers. Again these changes are nominal and just to be consistent with current statute.

**CHAPTER 400 to 425 – ZONING REGULATIONS AND SUBDIVISION REGULATIONS**

- I. Under the zoning regulations, the changes again are changes to update our Code to match State Statutes and to clarify some of the punishment provisions. The changes in this Chapter are not dramatic.
  - A. **Details:**
    - 1. In Section 400.075, there is a change to be consistent with statute to broaden the definition of “dwelling, single-family” regarding group homes for handicapped persons. Frankly, this has been in the statutes for many years.
    - 2. Section 400.270 has a minor change to the penalty section to be consistent with statute. A similar change will found in part of Section 400.485.
    - 3. In Section 400.565(b) incorporated statutory language relating to public hearings and official notice applying equally to all zoning changes and amendments.
    - 4. Section 400.570 also changes the penalty section.
    - 5. Section 400.610 then incorporates limitations on the penalties adopted by the legislature a couple of years ago. It limits the penalties to less than the \$500.00 maximum authorized by statute limiting fines and imprisonment on a first offense.
    - 6. Section 400.625 includes a reference to filing suit of the person is not pleased with the results of a Board of Adjustment hearing to be consistent with a revised statute, but this is not really a substantive change.
    - 7. There are a couple of the minor revisions to Chapter 425 that are of little significance.

**CHAPTER 500 to 530 – BUILDING CODE; RIGHTS OF WAY MANAGEMENT;**

**STREET, SIDEWALKS, AND MISCELLANEOUS PUBLIC PLACES AND  
INFRASTRUCTURE; AND MISCELLANEOUS CONSTRUCTION REGLATIONS**

I. The changes in these Chapters are the same type changes found in Chapter 400 et. seq.

A. **Details:**

1. Sections 500.010 through 500.090 are all modified to cross-reference the General Penalty section.
2. Section 525.010 was deleted as it is now addressed in Section 400.570.

**CHAPTER 600 – ALCOHOLIC BEVERAGES**

I. As referenced above, the changes to the Alcohol Code were previously adopted by the Board.

**CHAPTER 610 – BUSINESS REGULATIONS**

I. The only changes to Chapter 16 were to make it consistent with statute to cap fees if capped by state statute.

**CHAPTER 620**

I. Chapter 620 and 625 were both retained but moved and the penalty section in 625.010 was modified to cross-reference the General Penalty section.

**CHAPTER 625**

I. The only change made in this Chapter is to again the definition of “misdemeanor” to be an “ordinance violation” and made a cross reference to the correct penalty provision ordinance.

**CHAPTER 630**

I. Chapter 630 regarding resort licenses was already covered in Chapter 600 and so it will be deleted.

**CHAPTER 635**

I. Chapter 635 regarding site seeing vehicles is being deleted as not being currently applicable.

**CHAPTER 645**

I. Chapter 645 was simply moved into Finance and Taxation Chapter 140.

**CHAPTER 650 – FOOD SERVICE ESTABLISHMENT**

I. This Section was modified only to make reference to the General Penalty provision.

**CHAPTER 670 – ADULT BUSINESSES**

I. I wanted to highlight Chapter 670 because it related to adult businesses. The Board already adopted ordinance 3048-19 recently, so no additional changes were needed.

**CHAPTER 675 – PAWN SHOPS**

I. Chapter 675.060 incorporated changes necessitated by statutory changes requiring additional information to be provided regarding the pledged property. This section essentially

incorporates the statutory language and is replaced with a statutory section which require additional information regarding pledged property and the term of upon broker's license has changed from 3 years to 2 years.

**CHAPTER 703 – COMMERCIAL AND INDUSTRIAL WASTE**

**CHAPTER 705 – COMBINED WATERWORKS AND SEWERAGE SYSTEM**

- I. There were revisions to penalty provisions only, limiting the penalties to our statutory authority.

**CHAPTER 740**

- I. This Chapter is simply being moved to Chapter 140 under Finance.

**GENERAL**

The most major of all Ordinances revisions were actually the ones previously completed by the Board—rewriting the Alcohol Ordinances and rewriting the Adult Business Ordinances.

SJS

**PARTICIPATION ON CRIME STOPPERS HOTLINE**



# City of Smithville

**Meeting Date:** January 21, 2020      **Department:** Police Department

**Agenda Item:** Resolution 764 - Contract Agreement with Crime Stoppers TIPS Hotline

**Summary:**  
 Approval of this item will continue the City’s support of the Kansas City Metropolitan Crime Commission’s TIPS Hotline. The TIPS Hotline enables the Police Department to use every available resource in obtaining information needed to solve crimes in our community. The TIPS Hotline has taken over service of our anonymous tips in the school district as well. During 2019, the Smithville Police Department received twelve anonymous tips through the TIPS Hotline. Many of these tips were related to students and directed to the School Resource Officers.

**Purpose:**  
 The entire Kansas City metropolitan area benefits from the TIPS program. This is a tool the Police Department has used in the past and will continue to us in our efforts to solve crimes. The Smithville Police Department has been a member since December 2001 with an annual contribution of \$250.

**Impact**

Comprehensive Plan:	n/a
Economic Development Plan:	n/a
Parks Master Plan:	n/a
Strategic Plan:	n/a
Capital Improvement Plan:	n/a
Budget:	Monies were budgeted for this expense

**Legislative History:**

This contract has been approved annually.

**Suggested Action:**

A motion to approve Resolution 764.

**Attachments:**     Plans             Contract     Staff Report  
 Ordinance     Resolution     Minutes     Other:

**RESOLUTION 764**

**AN RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A CONTRACT WITH THE KANSAS CITY METROPOLITAN CRIME COMMISSION TO PROVIDE SERVICES TO THE CITY THROUGH PARTICIPATION IN THE TIPS HOTLINE PROGRAM.**

**WHEREAS**, the City of Smithville Police Department can benefit by using the TIPS Hotline as an investigative and informational resource in solving crimes; and

**WHEREAS**, the Crime Stoppers TIPS Hotline has an established and proven record in assisting law enforcement agencies in the apprehension of the criminals; and

**WHEREAS**, the Smithville Board of Alderman wishes to contract with the Kansas City Metropolitan Crime Commission for the purposes of providing the TIPS Hotline service.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMAN OF THE CITY OF SMITHVILLE, MISSOURI:**

That the Mayor is hereby authorized and directed to execute the attached contract agreement with the Kansas City Crime Commission for the purpose of providing the services previously described and further detailed in the attached agreement.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 21<sup>st</sup> day of January 2020.

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST:

\_\_\_\_\_  
Linda Drummond, City Clerk

**Your File Copy**

**CONTRACT**

This Contract is entered into this year, 2020, by and between the City of Smithville and the Kansas City Metropolitan Crime Commission a Missouri not-for-profit corporation located at 3100 Broadway, Suite #226, Kansas City, Missouri 64111.

**WHEREAS**, the Crime Commission has run and continues to run a Crime Stoppers program promoting the 816-474-TIPS Hotline Program in the Greater Kansas City area, which includes Johnson and Wyandotte Counties in Kansas and Cass, Clay, Jackson, Lafayette, Platte and Ray Counties in Missouri.

**WHEREAS**, the City of Smithville wishes to contract with the Crime Commission to provide this service in Smithville, MO.

**NOW, THEREFORE**, the parties agree as follows:

1. The City of Smithville will pay the Crime Commission an annual fee of \$250.00 dollars, payable on the date hereof and on each anniversary date of the date hereof during the term of this contract. Such annual fee may be adjusted each year as the parties hereto may agree.
2. The Crime Commission will provide its Crime Stoppers Program in Smithville which the program shall include, at a minimum, the following services:
  - a) Maintain the Crime Stoppers Hotline, (currently 816-474-TIPS) which will be answered a minimum of eight hours per day;
  - b) Provide publicity concerning the availability of the Crime Stoppers TIPS Hotline;
  - c) Provide rewards for information leading to the arrest, issuance of a warrant or indictment, which results from calls to the Crime Stoppers TIPS Hotline;
  - d) Forward information received on the Crime Stoppers TIPS Hotline regarding crimes in Smithville, MO.

**Smithville Board of Aldermen**

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3. The parties agree, that the services to be provided by the Crime Commission are being provided strictly on a contract basis and that the Crime Commission is not and shall not be considered a part of Smithville, MO or the City of Smithville. The Crime Commission shall not be subject to any control by Smithville, MO or the City of Smithville.

4. This contract shall be for an initial term of one year, commencing on the date hereof. Upon expiration of the initial term of this Contract, and upon expiration of each additional one year period thereafter, the term of this Contract shall be extended automatically for a period of one year, unless and until either party hereto gives written notice to the other party hereto of its intent not to extend the term of this Contract for an additional one year period.

5. This Contract shall not be assignable without the prior written consent of both parties. Any purported assignment without such written consent shall be void.

**IN WITNESS WHEREOF**, the parties have executed this Contract the year and date first above written.

**Smithville, MO**

By \_\_\_\_\_

ATTEST: \_\_\_\_\_

KANSAS CITY METROPOLITAN CRIME COMMISSION

By  \_\_\_\_\_  
Rick Armstrong

ATTEST: \_\_\_\_\_

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**AMENDMENT TO THE COMPENSATION PLAN**



# City of Smithville

**Meeting Date:** January 21, 2020      **Department:** Administration

**Agenda Item:** Resolution 765, 2019-2020 Compensation Plan Amendment

**Summary:**

Staff is recommending changes to the Parks and Recreation Director job description. This resolution would amend the job description of the Parks and Recreation Director in the Compensation Plan to reflect the changes recommended by staff.

The recommended changes include:

- Updates to the job Summary to better clarify the Director’s role in parks and recreation master plan and strategic planning processes;
- Additional emphasis on oversight of recreation activities;
- Clarifies coordination with the Parks Crew Leader who is responsible for scheduling and overseeing daily tasks;
- Addition of responsibility for trail development, implementation, and maintenance; and
- Acknowledgement of responsibility for special event coordination for events occurring on City property.

Upon approval of this resolution, staff plans to begin the recruitment process for the position in January-February with an anticipated start date of in the spring of 2020.

**Purpose:**

To change the job description of the Parks and Recreation Director.

**Impact:**

Comprehensive Plan:	N/A
Economic Development Plan:	N/A
Parks Master Plan:	N/A
Strategic Plan:	N/A
Capital Improvement Plan:	N/A
Budget:	N/A

## Smithville Board of Aldermen

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**Legislative History:**

N/A

**Suggested Action:**

Motion to approve Resolution 765

**Attachments:**

Plans       Contract       Staff Report  
 Ordinance       Resolution       Minutes       Other:    Job description

**RESOLUTION 765**

**A RESOLUTION AMENDING THE 2019-2020 COMPENSATION PLAN TO CHANGE THE PARKS AND RECREATION DIRECTOR JOB DESCRIPTION.**

**WHEREAS**, The Board of Aldermen approved a 2019-2020 Compensation Plan on September 3, 2019; and,

**WHEREAS**, the 2019-2020 Compensation Plan contains an existing Parks and Recreation Director job description; and,

**WHEREAS**, staff recommends changes to the Parks and Recreation Director job description;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI:**

**THAT** the 2019-2020 Compensation Plan is hereby amended to change the Parks and Recreation Director job description based on staff recommendations.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 21<sup>st</sup> of January 2020.

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST:

\_\_\_\_\_  
Linda Drummond, City Clerk

**Parks and Recreation Director**

**DEPARTMENT:** Parks and Recreation

**SUPERVISOR:** City Administrator

**SUMMARY:**

The Parks and Recreation Director serves as the director of the department with highly responsible managerial and supervisory work in planning, organizing and directing all activities in the department. Coordinates with the Board of Aldermen, Parks and Recreation Committee, and public to implement recommendations of the Parks and Recreation Master Plan and Strategic Plan.

**DUTIES & RESPONSIBILITIES:**

- Overall maintenance and planning responsibilities for all City recreational facilities, parkland and other City-owned properties.
- Maintain and improve parks, recreational areas, and all facilities located within the park system to insure adequate, appropriate, and safe recreational opportunities for the enjoyment and pleasure of all residents and visitors of the City. Ensure all department parks and facilities are inspected for safety, cleanliness and compliance with maintenance standards.
- Work with the Board of Aldermen and Parks and Recreation Committee to implement recommendations from the Parks and Recreation Master Plan and Strategic Plan.
- Coordinate recreation staff and services; monitor program status; identify community interest and needs; develop and enhance recreation opportunities, partnerships, and sponsorships.
- Responsible for selection and supervision of campground hosts for Smith's Fork Campground. Coordinate with camp hosts to oversee Smith's Fork Campground including but not limited to scheduling camping clubs, special events, collection of campground fees, ice and firewood sales, and maintenance of all facilities in the campground.
- Under the guidance of the City Administrator, develop and prepare the annual Parks Department budget and provide continual monitoring of expenditures in relation to the annual budget.

- Coordinate with Parks Crew Leader to address requests for information, determine relevancy and schedule work associated with requests for service.
- Supervise park department employees and conduct annual performance reviews.
- Coordinate purchases, process bills and other financial obligations as prescribed by the City of Smithville Purchasing Policy.
- Develop, coordinate, and implement trail plans and trail maintenance.
- Supervise park construction projects.
- Coordinate the efforts of set-up and on-site assistance for special events on City property at the direction of the Assistant City Administrator.
- Develop and maintain a preventative maintenance program for city owned equipment, tools, and supplies utilized by the department.
- Coordinate and participate in snow removal operations for City Hall and other City property.
- Perform other duties as assigned by the City Administrator.

**REQUIREMENTS:**

- College or university graduate with a bachelor's degree in park management, recreation, landscape architecture or related fields and four to five (4-5) years of experience or an equivalent combination of education and experience.
- A high level of public relations skills for daily interaction with the public and for the promotion of the park facilities.
- A demonstrated ability to meet and successfully work with the public.
- A demonstrated ability to schedule projects and the work of field crews to ensure the efficiency and effectiveness of the department.
- Attitude and ability consistent with the physical nature of the job.
- Ability to perform work with minimal guidance.
- Effective time and resource management skills.

## **Smithville Board of Aldermen**

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- Job requires outdoor work that involves exposure to physical hazards, health and safety risks, and/or adverse or otherwise undesirable characteristics in the environment, including risk of physical injury from carrying out duties near heavy equipment or machinery, and with hazardous chemicals or materials.
- Ability to establish and maintain effective working relationships with work colleagues and the general public.

**LEAK ADJUSTMENT**



# City of Smithville

**Meeting Date:** January 21, 2020      **Department:** Finance, Utilities

**Agenda Item:** Resolution 766, Leak Adjustment for David Parr

**Summary:**  
 The City has received notice from David Parr, a residential utility billing customer, of a repaired water leak and his request for a one-month leak adjustment to his utility account. All requirements set forth in Ordinance 2989-18 have been met.

**Purpose:**  
 On December 30, 2019, the Utilities Department obtained electronic reads of water usage for the month of December. Those reads were uploaded to the billing system later that same day. Our system gives a list of warnings for customers with no, low, or high usage. Mr. Parr had a high usage warning, with a consumption of 36,700 gallons (this account’s average usage is 1,866 gallons). Mr. Parr’s December bill was for \$440.11.

City staff verified the read and contacted Mr. Parr on January 2 to notify him that the system registered a high read. Mr. Parr stated they had a toilet that was making noise and he would contact a plumber to have them check it. Mr. Parr’s plumber called back the same day and spoke to staff, stating that the toilet had been fixed and asked us what we needed from him. Staff explained that Mr. Parr would need to bring in the invoice that showed the leak had been repaired.

Mr. Parr submitted the necessary documentation (attached) satisfying the requirements of the policy. Staff is bringing forward the leak adjustment request according to the policy.

If approved, the leak adjustment would issue a credit of \$73.51 to Mr. Parr’s utility account.

<b>Impact:</b>	
Comprehensive Plan:	N/A
Economic Development Plan:	N/A
Parks Master Plan:	N/A
Strategic Plan:	N/A
Capital Improvement Plan:	N/A
Budget:	Decrease in revenue receivable

**Legislative History:**

N/A

**Suggested Action:**

Motion to approve Resolution 766

**Attachments:**

Plans

Contract

Staff Report

Ordinance

Resolution

Minutes

Other:

Request, Repair  
Documentation and  
Adjustment Calculation

**RESOLUTION 766**

**A RESOLUTION APPROVING A WATER AND WASTEWATER LEAK ADJUSTMENT REQUEST.**

**WHEREAS**, the City approved Ordinance No. 2989-18 amending Section 705.110 of the Code of Ordinances on February 6, 2018;

**WHEREAS**, David Parr, a residential utility billing customer with account 10-001250-01, has notified the City of a water leak and is requesting a leak adjustment;

**WHEREAS**, the conditions set forth in Section 705.110 of the Code of Ordinances as amended have been met; and,

**WHEREAS**, the adjustment calculation set forth in 705.110 of the Code of Ordinances as amended has been determined to be \$73.51;

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

A water and wastewater leak adjustment in the amount of \$73.51 shall be credited to account 10-001250-01 of residential utility billing customer David Parr.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 21st day of January 2020.

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST:

\_\_\_\_\_  
Linda Drummond, City Clerk



**Water and Wastewater Leak Adjustment Calculation**

Utility Customer Name: David Parr  
 Utility Service Address: 1107 Coneflower  
 Utility Account Number: 10-001250-01

Breaking down key figures in Ordinance 2989-18(C), Adjustment Calculations

1. The adjusted bill(s) shall charge the City's normal water rate on all water volume used up to two (2) times the average monthly water use for this property.

City's normal water rate (per 1,000 gallons): \$6.99  
 Average monthly water usage for this property: 1,866 gallons

2. Adjusted bill(s) shall also charge the City's wholesale water rate on all water volume used greater than two (2) times the average monthly water use for this property.

City's wholesale water rate (per 1,000 gallons): \$4.76

3. If the leak is inside the home, the wastewater bill(s) shall not be adjusted because the water volume used will have drained into the sanitary system of the home.  
 If the leak is outside the home, the wastewater bill(s) will be adjusted to reflect the average monthly wastewater usage for this property.

City's normal wastewater rate (per 1,000 gallons): \$3.77  
 Average monthly wastewater usage for this property: 1,866 gallons  
 Was the leak inside or outside the home: inside  
 Was the wastewater billed winter average or actual usage: actual usage

Calculating the adjustment amount using Ordinance 705.110(C), Adjustment Calculations

MONTH 1	MONTH 2 (if applicable)
Original Water Bill Amount 36,700 gallons @ 6.99 per 1,000 gallons = 256.53	Original Water Bill Amount gallons @ 6.99 per 1,000 gallons = 0.00
Adjusted Water Bill Amount 3,732 gallons @ 6.99 per 1,000 gallons = 26.09 + 32,968 gallons @ 4.76 per 1,000 gallons = 156.93 183.02 Water Discount = 73.51	Adjusted Water Bill Amount 0 gallons @ 6.99 per 1,000 gallons = 0.00 + 0 gallons @ 4.76 per 1,000 gallons = 0.00 0.00 Water Discount = 0.00
Original Wastewater Bill Amount 36,700 gallons @ 3.77 per 1,000 gallons = 138.36	Original Wastewater Bill Amount 0 gallons @ 3.77 per 1,000 gallons = 0.00
Adjusted Wastewater Bill Amount 36,700 gallons @ 3.77 per 1,000 gallons = 138.36 Wastewater Discount = 0.00	Adjusted Wastewater Bill Amount 0 gallons @ 3.77 per 1,000 gallons = 0.00 Wastewater Discount = 0.00



Water and Wastewater Leak Adjustment Request

Utility Customer Name: David Parr

Utility Service Address: 1107 Coneflower

Utility Account Number: 10-001250-01

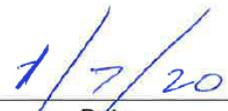
The residential utility billing customer referenced above has notified City staff of a water leak and is requesting a leak adjustment. City staff has verified the water consumption of the month(s) in question is more than two (2) times the monthly average for this property, no other leak adjustment has occurred in the previous thirty-six (36) month period, covers a single event and repair receipts have been provided.

In accordance with the Leak Adjustment Ordinance No. 705.110, the Board of Alderman may consider a leak adjustment calculated to be \$73.51 at the Board of Alderman meeting on 1-21-20.

I, David Parr, agree to attend the Board of Alderman meeting referenced above, and understand that my failure to be present is cause for the Board of Alderman to deny my request.

Upon resolution by the Board of Alderman, I, David Parr, shall make payment in full or make formal payment arrangements with City staff no later than ten days (10) following the Board of Alderman consideration. I understand that failure to do so will result in imposition of late fees and/or disconnection of service.

  
Customer's Signature

  
Date

**Smithville Board of Aldermen**

3417 Bultman S  
 Abilene TX 79406  
 David Parr  
 Casey Parr

Legacy 1 Plumbing

1201 Lakeview Circle  
 Smithville, MO 64089  
 816-529-1702  
 legacy1plumbing@hotmail.com

**Invoice**

Date	Invoice #
1/6/2020	2280

<b>Bill To</b>
Casey Parr 1107 Coneflower Stret Smithville Mo 64089

<b>Ship To</b>
Casey Parr 1107 Coneflower Stret Smithville, MO 64089

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			1/6/2020			
Quantity	Item Code	Description			Price Each	Amount
	14 Plumbing	Replaced fill valve, flapper, and supply line on master stool			200.00	200.00
<p><i>paid            1/4/20            C/K # 8465</i></p>						
<b>Total</b>						\$200.00

January 7, 2020

To Whom it may concern,

We understand that we should be at your meeting on January 21, 2020 but we are unable to make that happen. We live in Abilene, TX and will not be back in Smithville until the end of February 2020. If you need us to answer questions we will be here February 25 through March 5. You can also reach us by calling 940-256-2536 if that is satisfactory.

Thank you in advance for an consideration of help you might be able to assist us with. We are retired school teachers living on a fixed income.

The home is located at 1107 Coneflower St.  
Smithville, MO

Thank you so very much,  
Sonya Parr  
David Parr

P.S. as soon as the city contacted us that we might have a leak, we called that very same hour to have Kevin Frazier come to see where the problem was. He came Monday, Jan. 6, his soonist appt time to fix the problem.

Thanks to the city, Nicole, for letting us know what was going on.

**GENERAL RELEASE AND SETTLEMENT AGREEMENT**



# City of Smithville

**Meeting Date:** January 21, 2020

**Department:** Administration

**Agenda Item:** Resolution 767, General Release and Settlement Agreement

**Summary:**

The City has negotiated a release and settlement agreement with Mitch and Laura McGuire relating to a water leak and potential utility connection agreement.

**Purpose:**

Last fall, the Utilities Department obtained electronic reads of water usage for the month of September indicating a water leak associated with the account of Mitch McGuire. Mr. McGuire subsequently requested a leak adjustment, which the Board approved in October, leaving a total bill to be paid by Mr. McGuire of \$2,478.64. During discussion at the meeting, Mr. McGuire noted that it was his belief that he was entitled to unused connections to the utility system as a result of easement acquisition related to a prior city utility project. (The McGuire’s purchased property that included easement language outlining utility connections).

Following discussions with the City’s legal counsel, Mr. McGuire and his wife Laura, have agreed to have the amount of the utility bill remaining after the adjustment to be waived in exchange for their release from any responsibility from the City regarding the utility easements.

The attached agreement and resolution outline the waiver by the city of \$2,478.64 in exchange for release from the easement agreement. Mr. and Mrs. McGuire have signed the agreement. They have noted they will not be able to attend Tuesday’s meeting due to work commitments, but would like to have the issue resolved, so wish to proceed with Board review of the item.

**Impact:**

Comprehensive Plan:	N/A
Economic Development Plan:	N/A
Parks Master Plan:	N/A
Strategic Plan:	N/A

Capital Improvement Plan:	N/A
Budget:	Decrease in revenue receivable
<b>Legislative History:</b> N/A	
<b>Suggested Action:</b> Motion to approve Resolution 767	
<b>Attachments:</b> <input type="checkbox"/> Plans <input type="checkbox"/> Contract <input type="checkbox"/> Staff Report <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Minutes <input checked="" type="checkbox"/> Other: Agreement	

**RESOLUTION \_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO  
A GENERAL RELEASE AND SETTLEMENT AGREEMENT  
WITH MITCH MCGUIRE AND LAURA MCGUIRE.**

**WHEREAS**, a dispute has arisen between the City and regarding the Water leakage bill and/or water connection fees in the City.

**WHEREAS**, City has negotiated a resolution to said dispute in the form of an Agreement Attached hereto as **Exhibit A**.

**WHEREAS**, City Staff has recommended that the Board of Alderman accept this Agreement and authorize the Mayor to execute the Agreement on behalf of the City.

**II. RESOLUTION**

Be it resolved by the City of SMITHVILLE Missouri that the Mayor is hereby authorized to execute the General Release and Settlement Agreement in the Form Attached hereto as Exhibit A.

**III. EXECUTION/ADOPTION**

\_\_\_\_\_  
SIGNATURE OF Mayor

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WITNESS: City Clerk

Exhibit A

GENERAL RELEASE AND SETTLEMENT AGREEMENT

This GENERAL RELEASE and SETTLEMENT AGREEMENT is made and entered into this \_\_\_\_ day of December 2019, by and between joint and severally, Mitch McGuire and Laura McGuire (hereinafter referred to as "McGuires") and the City of Smithville, Missouri, and its past and present, officials, officers, employees, agents and affiliates (hereinafter referred to as "City").

WHEREAS, after May 22, 2002 Mitch McGuire and/or Laura McGuire acquired property from Roger H. Rodecap. Prior to McGuires' acquisition of said property, Roger H. Rodecap on or about May 22, 2002 signed a Standard Sewer Easement (as Grantor) in favor of City (Grantee) which was filed with the Clay County Recorder of Deeds on or about August 20, 2002 and recorded at Book 3729 at Page 291. The City did not sign this Easement. Contained within said Easement were the following Paragraphs:

*In consideration of granting said easement, grantor shall be allowed to make two residential connections to said sewer, regardless of whether said connections service residences within the city limits of Smithville, without the assessment of additional fees related to the cost of installation of said sewer or future gravity sewer or impact fees normally assessed by the City. This waiver of additional fees does not apply to normal monthly sewer bills as provided by City ordinance and calculated in the same manner as all City sewer customers residing within the city limits of the City of Smithville.*

*In consideration of granting said easement, grantor shall be allowed to make two residential connections to the City's water system, without the assessment of impact fees.*

*In consideration of granting said Easement, grantor shall be allowed to make two sewer service lines one-hundred and twenty-five (125') on length connecting to said sewer and extending across the creek located on Grantor's property at locations designed by Grantor, and generally indicated on the attached aerial map entitled on Exhibit B.*

WHEREAS, after May 22, 2002 Mitch McGuire and/or Laura McGuire acquired property from Roger H. Rodecap. Prior to McGuires' acquisition of said property, Roger H. Rodecap signed a Temporary Sewer Easement (as Grantor) on or about May 22, 2002 in favor of City (Grantee) which was filed with the Clay County Recorder of Deeds on or about August 20 2002 and recorded at Book 3729 at Page 331. The City did not sign this easement. Contained within said easement were the following Paragraphs:

*In consideration of granting said easement, grantor shall be allowed to make two residential connections to said sewer, regardless of whether said connections service residences within the city limits of Smithville, without the assessment of additional fees related to the cost of installation of said sewer or future gravity sewer or impact fees normally assessed by the City. This waiver of additional fees does not apply to normal monthly sewer bills as provided by City ordinance and calculated in the same manner as all City sewer customers residing within the city limits of the City of Smithville.*

*In consideration of granting said easement, grantor shall be allowed to make two residential connections to the City's water system, without the assessment of impact fees.*

*In consideration of granting said Easement, grantor shall be allowed to make two sewer service lines one-hundred and twenty-five (125') on length connecting to said sewer and extending across the creek located on Grantor's property at locations designed by Grantor, and generally indicated on the attached aerial map entitled on Exhibit B.*

## Smithville Board of Aldermen

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WHEREAS the McGuires argue that they are entitled (as the assignee of Mr. Rodecap) to have the benefit of the above said paragraphs of the above said easements at some point in the future. The City does not believe that any such rights were ever created with Mr. Rodecap and/or assigned to the McGuires.

WHEREAS at all times relevant hereto Section 432.070 of the Revised Statutes of Missouri was in full force and effect. Said statute reads as follows:

**§ 432.070. Contracts, execution of by counties, towns—form of contract**

*No county, city, town, village, school township, school district or other municipal corporation shall make any contract, unless the same shall be within the scope of its powers or be expressly authorized by law, nor unless such contract be made upon a consideration wholly to be performed or executed subsequent to the making of the contract; and such contract, including the consideration, shall be in writing and dated when made, and shall be subscribed by the parties thereto, or their agents authorized by law and duly appointed and authorized in writing.*

WHEREAS the City cannot locate any evidence that any of the above said easements or the terms contained therein were ever accepted by the City in writing, including but not limited to any writing evidenced by Ordinance, Resolution, Discussion of the Board of Alderman reduced to minutes, contract or letter authorized by the Board. As such the City does not believe that any of the above said easements creates any duty or obligation of the City or Claim against the City with regard to any future sewer or water connections. *Donovan v. Kansas City*, 175 S.W.2d 874 (Mo 1943).

WHEREAS McGuires argue that whether or not such an agreement(s) were authorized by the Board of Alderman in writing, the City has accepted each of the terms of said easements by accepting, using and benefiting from said easements.

WHEREAS the City argues that any such alleged agreement, which was not reduced to writing is void as a matter of law. "The fact that a municipality has received the benefit of a performance by the other party does not make the municipality liable either on the theory of ratification, estoppel or implied contract. . . . A void contract is a nullity, not even subject to ratification." *St. Charles County v. "A Joint Bd. or Comm'n"*, 184 S.W.3d 161, 167 (Mo App 2006).

WHEREAS McGuires have currently incurred a substantial water bill of \$2,478.64 from the City, which they believe was caused by a water leak and not usage. The water bill was for the property located at 18511 N Main St. Smithville Mo. 64089.

**NOW, THEREFORE**, in consideration of the settlement of any and all claims that Mitch McGuire and/or Laura McGuire, (jointly and/or severally) may have against the City, its agents, employees, Officers, Affiliates or representatives prior to the date hereof, and other good and valuable consideration to be provided pursuant to the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties to this General Release and Settlement agree as follows:

1. The City agrees on a one-time basis to waive the applicable \$2,478.64 water fee for the McGuire owned property located at 18511 N Main St. Smithville Mo. 64089. After said date, the City is not obligated to waive and/or forgive any water or sewer connection and/or usage fee(s) for McGuires and shall not be obligated by this agreement to admit to the validity of any terms of any easement(s) signed at any time by Roger H. Rodecap, which purport to bind the City to future obligations which the City disputes and denies.

2. Mitch McGuire and Laura McGuire, (jointly and severally) on behalf of themselves and each of their heirs, attorneys, representatives, partners, executors, administrators, successors and assigns as well as their agents, servants and employees (the "Releasing Parties"), do hereby release, acquit and forever discharge the City of Smithville, Missouri, and its past and present, officials, officers, employees, servants, agents, affiliates, successors and assigns (the "Released Parties"), fully and forever, of and from any and all claims, demands, proceedings or causes of action of whatsoever kind or nature, whether known or unknown, contingent or liquidated (both at law and/or in equity) arising or accruing prior to the date of this Agreement including but not limited to claims (for damages or relief of any kind) arising out of any circumstance, matter, event, contract, act or omission which occurred or existed prior to the date of this Agreement as well as any easement, contract or agreement (executed by the McGuires or Roger H. Rodecap and whether or not expressly referenced herein) which was/were executed prior to this Agreement.

3. Each of the Releasing Parties hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim or demand, or commencing, instituting or causing or commencing any proceeding of any kind or nature against any of the Released Parties, which may arise from or may be based upon any matter purported to be released hereby. Without in any way limiting any of the rights and remedies otherwise available to the Released Parties, Mitch McGuire and/or Laura McGuire shall indemnify and hold harmless the Released Parties from and against all loss, liability, claim, damage (including incidental and consequential damages) or expense (including costs of investigation and defense and attorneys' fees) arising directly or indirectly from or in connection with the assertion by or on behalf of Mitch McGuire and/or Laura McGuire of any claim or other matter purported to be released hereby.

4. The undersigned parties acknowledge that this General Release and Settlement Agreement is being executed in compromise and settlement of doubtful and disputed claims, that the Releasing Parties and the Released Parties have disclaimed all liability and have entered into this Agreement for the sole purpose of avoiding the costs, risks and other burdens of litigation and that their acceptance of the terms of this General Release and Settlement Agreement and/or their execution thereof shall not be construed as an admission of liability whatsoever by any of the parties herein released, by whom liability is expressly denied.

5. If any provision of this General Release and Settlement Agreement is held to be invalid or unenforceable by any court of competent jurisdiction, the other provisions of this General Release and Settlement Agreement will remain in full force and effect.

6. The undersigned parties acknowledge that in executing this General Release and Settlement Agreement they are relying on their own judgment, belief, and knowledge to all phases of their respective claims and that they are not relying on representations or statements made by the Released Parties, anyone representing them or employed by them. McGuires and the City have had ample opportunity to consult with legal counsel of their choice regarding this General Release and Settlement Agreement.

7. The undersigned parties agree that nothing in this agreement shall be deemed to create or change Mitch McGuire and/or Laura McGuire or their successor's duty to repair or maintain any sewer lines, mains or waterlines from the duty and obligation, which currently exists. The undersigned parties further acknowledge and understand that this agreement shall not bind any party other than the City and Mitch McGuire and Laura McGuire and their respective successors.

8. The undersigned parties agree to execute any and all documents reasonably necessary to fulfill their duties and obligations under this agreement, including.



**The City of Smithville Missouri**

By \_\_\_\_\_  
Damien Boley, Mayor

\_\_\_\_\_  
(Date)