



City Administrator's Report

August 11, 2022

Planning Commission Review of Outdoor Storage

This summer, the Planning Commission has reviewed Ordinances regulating outdoor storage for potential update. This review results from an increase in complaints relating to outdoor storage. While reviewing the ordinances, staff has determined inconsistencies exist. Changes would provide consistent treatment in similar situations. Attached is the most recent memo on this issue to the Planning Commission. Final review is anticipated at the September Planning Commission meeting. Any recommended changes to the Ordinances will come to the Board for final approval.

Police Rifle Purchase and Training

As you may recall, the FY22 budget included purchase of patrol rifles along with the peripheral equipment and ammunition necessary to train our officers. Chief Lockridge reports that as of August 1, we have trained all staff on the nomenclature, safety, maintenance, proper handling of and qualification with these weapons. There is one rifle in every patrol car, just like the shotguns we have carried for years. As new staff is hired, they will complete training and qualification as well.

Changes to TIF Commission Appointment Process

Staff was recently notified that 2020 census data showing an increase in the total population of Clay County and the approval of voters to change the County Constitution triggered sections of State Statute regarding TIF Commission appointment. Attached is a memo from Economic Development Counsel Megan Miller outlining this issue. Gilmore and Bell have worked with cities in Clay County to establish an Executive Order relating to the process. Mayor Boley will sign this Executive Order on Wednesday.

Date:	August 3, 2022
Prepared By:	Jack Hendrix
Subject:	Outdoor Storage

Staff completed a much more significant dive into the research of the history of City ordinances on the subject since last meeting. Some of that research is helpful to inform you as to how we got here, which may have impacts upon your thoughts on the matters discussed. Staff left the meeting with the consensus to restore the code provisions to what existed prior to the code overhaul in 2013. We were able to find previously unknown ordinances that address storage over time. The following is a timeline, as best as can be determined (some incomplete/confusing minutes from the early 1990's) of outdoor storage regulations in Smithville.

It appears as though the general provisions in all business districts was as follows:

"All business, servicing, storage and display of goods (except of off-street parking and loading) shall be conducted within completely enclosed structures." This language was apparently in ALL commercial and industrial districts. In 1994, Ordinance 1563 was presented to the Board of Aldermen that would change the outdoor storage rules, for what was then the B-2 district. That ordinance changed the rule for "outdoor storage associated with permitted uses as described in appendix A shall only be permitted as a conditional use". The difficulty with this ordinance is that it assumes that the outdoor storage could be different in the same district depending upon whether or not it was considered under the permitted uses of the old Table of Uses provisions of our code. That is simply a misunderstanding of how the code was organized and how code interpretations work in a court of law. As said, this version was adopted in 1994 at the August Board meeting.

There does not appear to be any specific listing of the discussions that occurred after this original approval by the Board other than it was referred to the P & Z for further discussion. In addition, none of the minutes of the P & Z between the August approval and the Board meeting that occurred on May 5, 2022 reveal any discussions on outdoor storage. In the Board meeting, they approved Ordinance 1615 concerning outdoor storage. While the ordinance lists several findings of the Planning Commission in the Whereas provisions, again, no minutes or agendas show such discussion.

Ordinance 1615 changed the outdoor storage regulations by adding definitions (which have not changed to today) for Display of Merchandise for Sale to the Public, Outdoor Storage and Storage Screening. It also identified changes to the Use Limitations sections in the B-2, B-4, I-1 and I-2 districts. (The B-3 district contained a provision

referencing the standards in the B-2 district). Following that ordinance, the commercial and Industrial districts contained the following provisions related to Outdoor Storage:

B-1: "All business, servicing, storage and display of goods (except of off-street parking and loading) shall be conducted within completely enclosed structures."

B-2, B-3, I-1 and I-2: "No outdoor storage shall be permitted except for the display of merchandise for sale to the public or outdoor storage completely enclosed in proper storage screening.

B-4: "No outdoor storage, except the display of merchandise for sale to the public, shall be permitted."

Following Ordinance 1615 above, there were several additional minor tweaks to the Industrial and B-4 districts, and other changes to the nuisance codes. The nuisance code had a provision barring unlicensed vehicles (except car dealers) from being in the public view. That provision applied to ALL districts and required the vehicles to be *"confined within a structure or fence that shields the vehicle or portion thereof from view from adjacent property or public rights of way"*. This ultimately resulted in much confusion that we are now attempting to resolve.

With the original consensus to restore the pre-2013 provisions, staff wants to show clearly what that might mean and offer a couple of tweaks based upon the actual district. First, there would be three different levels of outdoor storage requirements, as discussed above:

The B-1 district would require ALL storage to be inside a building, and it would prohibit any outside display of merchandise to be sold.

The B-4 district would require storage to be inside a building except the display of merchandise to be sold.

All other districts (commercial and industrial) would be allowed to display merchandise for sale and store outside if behind proper storage screening (6 ft. fence, etc.)

The impact on the B-1 district would be that the types of businesses (e.g. clothing stores, hardware stores, antique stores) allowed would not be able to display any wares outside (except in limited drive-up businesses or gas stations) if such business is approved with a conditional use permit.

The B-4 district would only be allowed to display merchandise for sale to the public with no other outdoor storage ability.

All other districts would be able to have display for sale items as well as outdoor storage behind proper storage screening.

The B-1 and B-4 districts generally have the highest likelihood of impacting a residential use, but the other districts certainly can impact residential. With a complete restoration, here are a couple of probable issues:

The B-4 district allows residential uses, but the old provision would not differentiate between the use. So, one likely unintended consequence would be that a single-family home in the B-4 district would not be able to have outdoor storage at all. Depending upon how strictly the provision would be construed, it arguably could have an impact on the lumberyard to the extent it has outdoor storage (in standard lean-tos) that are nothing more than basically a roof. While the entire perimeter of that facility has sufficient "storage screening" by either a building wall or sight obscuring fencing, the previous version of the B-4 could prohibit it altogether. Staff seeks guidance on whether the B-4 district should address the residential impact by excluding residential uses located in the B-4 district altogether, and whether allowing outdoor storage that is properly screened would be appropriate as well.

Lastly, since B-1 districts are likely located at busy intersections in residential areas, should the total ban stay, or would an allowance for display of merchandise "during normal operating hours" be more appropriate?

MEMORANDUM

TO: City of Smithville, Missouri Board of Aldermen and Staff

FROM: Megan Miller, Gilmore & Bell P.C.

DATE: August 11, 2022

RE: Tax Increment Financing Commission Appointment Process

Section 99.800 *et seq.* of the Revised Statutes of the State of Missouri (the “TIF Act”) provides that prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, the City shall create a commission that will hold a public hearing and provide a recommendation to the governing body regarding the proposed redevelopment plan or redevelopment project (the “TIF Commission”).

Previously, the City created a TIF Commission pursuant to Section 99.820.2 of the Revised Statutes of the State of Missouri. The subsection provided that eleven people would be appointed as follows:

- (1) two members appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area;
- (2) one member appointed by all other districts levying ad valorem taxes within the area;
- (3) six members appointed by the City; and
- (4) two members appointed by the County.

Since August 28, 2008, cities within a county with a charter form of government and with more than two hundred fifty thousand inhabitants have been subject to a special process for selecting TIF Commissioners. With the Clay County Constitution becoming effective on January 1, 2021, and the most recent 2020 Census data putting the population of the County at 253,335 inhabitants, cities within Clay County are subject to this provision as of July 1, 2021.

Pursuant to Section 99.820.3 of the Revised Statutes of the State of Missouri, cities within Clay County are now required to create a TIF Commission consisting of twelve persons to be appointed as follows:

- (1) six members appointed by the Presiding Commissioner of the County;
- (2) three members appointed by the cities, towns, or villages which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;
- (3) two members appointed by the school boards whose districts include the redevelopment area; and
- (4) one member to represent all other districts levying ad valorem taxes in the redevelopment area.

For the appointment of members by the cities within Clay County that currently have tax increment financing districts, the chief election officials of the cities of Smithville, Excelsior Springs,

Independence, Kansas City, Kearney, Liberty and North Kansas City must agree on a manner in which to appoint three individuals to their respective city's TIF Commission. In order to do this in the most time effective manner and with TIF Commission members familiar with the proposed redevelopment area, Gilmore & Bell, P.C. has proposed that each Mayor issue an Executive Order for their respective city, an example of which is attached as Exhibit A.

This Executive Order declares that every city with a TIF district within Clay County will defer to the city bringing forth the redevelopment plan for the members to be appointed to the TIF Commission. It also states that each city shall appoint members in a manner as it determines is appropriate, without the necessity of notice to or the consent of the other cities. Currently, per the TIF Act, this Executive Order only will be issued by cities with active tax increment financing redevelopment plans and projects. If any city wishes to create a TIF Commission in the future, they will need to issue a similar Executive Order.

This is a unique situation where the statute specifically provides that the chief elected officials shall collectively determine the manner most appropriate to appoint members from a respective city. The Mayor expects to sign the Executive Order Wednesday morning.