

NOTICE: Agenda posted in the lobby and on the front door of Bethany City Hall, 6700 NW 36th St., Bethany, OK 73008 on Thursday, September 14, 2023, at 11:00 a.m.

The City of Bethany encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged to make the necessary accommodations. The city may waive the 48-hour rule if signing is not the necessary accommodation.

(PLANNING AND ZONING COMMISSION MEETING WILL BE HELD IN THE CITY COUNCIL CHAMBER AT BETHANY CITY HALL - 6700 NW 36TH ST., BETHANY, OK 73008)

AGENDA
CITY OF BETHANY
PLANNING AND ZONING COMMISSION
SEPTEMBER 21, 2023
7:00 P.M.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ADMINISTRATION OF OATH OF OFFICE FOR MR. TRENT REID

APPROVAL OF MINUTES OF AUGUST 3, 2023

EXPLANATION OF PROCEDURE TO AUDIENCE

PLANNING AND ZONING COMMISSION BUSINESS

ITEM 1: PC 23-10

Continue a discussion by the Planning & Zoning Commission regarding a short-term rental ordinance.

NEW BUSINESS

ADJOURNMENT UNTIL OCTOBER 5, 2023

MINUTES
CITY OF BETHANY
PLANNING AND ZONING COMMISSION
AUGUST 3, 2023

MEMBERS PRESENT: Charles Snyder, Chair
Justin Peck, Vice-Chair
Robert Helton
Steve Marx
Ron Crouch
James Clemmer

MEMBERS ABSENT: Kent Lynn

STAFF PRESENT: Ray Jones, City Attorney
Amanda McCellon, Comm. Dev. Director
Brendan Summerville, Comm. Dev. Associate
Linda Hlinicky, Adm. Assistant

NOTICE: Agenda posted in the lobby and on the front door of Bethany City Hall,
6700 NW 36th St., Bethany, OK 73008 on Thursday, July 27, 2023, at 11:00 a.m.

Charles Snyder, Chair called the meeting to order and gave the invocation. Motion was made by James Clemmer, seconded by Justin Peck to approve the July 20, 2023 Planning and Zoning Commission minutes as mailed. The votes are as follows: AYE- Justin Peck, Robert Helton, Steve Marx, Ron Crouch, James Clemmer. NAY- None. ABSTAIN- Charles Snyder. Motion carried 5-0-1.

ITEM 1: **PC 23-12**
Discussion and approval of a site plan submitted by Troy Rhodes, applicant, on behalf of Bethany First Church, property owner, located at the following addresses: 6910 NW 41st Street, 6907 NW 41st Street, 6905 NW 41st Street, 6903 NW 41st Street, 6900 NW 41st Street, and 4201 N Willow Avenue.

LEGAL DESCRIPTION: SECT. 16 T12N-R4W SE QTR BETHANY ADDITION; BLOCK 5, LOTS 9-12 AND BLOCK 6, LOTS 1-12 AND BLOCK 7, LOT 9.
(Item to be heard by City Council on August 15, 2023.)

ACTION: Brendan Summerville, Comm. Dev. Associate presented the staff report to consider a site plan submitted by Troy Rhodes, Applicant on behalf of Bethany First Church, Property Owner located at the following addresses: 6910 NW 41st Street, 6907 NW 41st Street, 6905 NW 41st Street, 6903 NW 41st Street, 6900 NW 41st Street, and 4201 N Willow Avenue. He summarized the zoning of the surrounding properties; and presented an aerial image of the area to be developed. The proposed development does fit within our land use codes. These are acceptable uses with the zoning that is in place. Mr. Rhodes, Applicant will show the Planning and Zoning Commission the exact details of the proposed project.

Troy Rhodes, Applicant presented a graphic overview of the site plan for the BFC Recreation Ministries. There will be three fields for kids ages 3 - 11 years old to play t-ball, soccer, and baseball. We will be adding onto the Floyd Center Facility with storage, concessions, and bathrooms to serve the ball fields. Also, there will be perimeter fencing/gates and new public sidewalks/walking trails.

Troy Rhodes, Applicant stated currently BFC owns ball diamonds West of the Bethany Fire Station that have been utilized since the 1960's. The intent is to relocate part of those baseball functions to the area we are discussing tonight. The vision of the park is to create gathering and play areas open to the community.

Troy Rhodes, Applicant spoke about setbacks, property lines, and right-of-ways in some of the areas of the project. We are proposing permanent structures in the right-of-way such as sidewalks, pedestrian lighting, and landscaping. Accessible parking will be available. Upgrades will be made at the intersections with sidewalks and crosswalks for the people to cross the street. The setbacks vary all around the properties. In some areas we have sidewalks, fences, gates, and the shade sails. A portion of the shadesails column will be within the setback area. We request our safety fencing be 6' tall at the perimeter. If the column of the long shade structure is on the property line, it can overhang the property line as long as shade structure is at least 8 feet or higher.

Commissioner Clemmer asked about the lights on Field 1. How far will the lights be from ODOT right-of-way and how tall are the lights?

Troy Rhodes, Applicant stated the existing OG&E power lines/poles are 80 feet tall. Our proposed lighting/poles are somewhere between 40 and 60 feet.

Commissioner Clemmer stated he believes OG&E needs to be involved for safety.

Commissioner Clemmer asked about the shade sails over the bleachers next to the electric lines.

Troy Rhodes, Applicant said the bleachers themselves are about 16' - 18' range in height.

Commissioner Snyder asked about the underground utilities for property north of NW 41st.

Troy Rhodes, Applicant explained we have an engineering team involved in dealing with utilities. If there are existing utilities to the houses, all the houses that the church owns are being removed and all utilities connected to the houses will be removed back out to the main.

Commissioner Marx about the type of fencing.

Troy Rhodes, Applicant we are working through pricing right now. The intent of the Church is to have a minimum black vinyl coated chain-link fence.

Commissioner Peck asked what is going to happen with the ball fields behind the Bethany Fire Station?

Troy Rhodes, Applicant stated the fields will be sold. The church prefers to have the ball fields close to the church building. They want to connect the activities more closely with the church.

Ray Jones, City Attorney asked if there are going to be any canopies hanging over a sidewalk.

Troy Rhodes, Applicant explained on Field 2 the structural columns of the shade canopy are on the property line and there is a part of the canopy that does hang over the sidewalk (public way). The ordinance requires it to be no less than 8', and we are well above that and do not see a problem.

Ray Jones, City Attorney stated his concern is, we have had litigation already with obstructions over a sidewalk in public right-of-way at this property. There are people who ride bikes on this sidewalk, and there must be sufficient clearance for someone to ride a bike.

Ray Jones, City Attorney asked about any proposed signalization in the crosswalk areas that are being added. It is a little unusual to have crosswalks in the middle of the street (N. Willow). Mr. Jones suggested some sort of stop sign or something in the middle of the block area.

After further discussion, Troy Rhodes, Applicant stated the three bullet points are setbacks, fence heights, and overhangs.

Commissioner Snyder suggested on field 1 (largest field for older players) put an overhang over the backstop so foul balls go up into the overhang and stay out of the street.

Commissioner Snyder stated we have talked about the shade covers over the public right-of-way, concerns about crosswalks that are not at intersections, and backside overhang on the shades. Any final plan needs to be approved by our City Engineer (from a legal and liability standpoint).

Amanda McCellon, Comm. Dev. Director informed the Planning and Commission that Troy Rhodes, Applicant has already met with her, City Engineer and Building Inspector. At that time no major issue came up.

Motion was made by Robert Helton, seconded by Steve Marx to recommend approving the proposed site plan located at the following addresses: 6910 NW 41st Street, 6907 NW 41st Street, 6905 NW 41st Street, 6903 NW 41st Street, 6900 NW 41st Street, and 4201 N Willow Avenue. The votes are as follows: AYE- Charles Snyder, Justin Peck, Robert Helton, Steve Marx, Ron Crouch, James Clemmer. NAY- None. ABSTAIN- None. The motion carried unanimously 6 - 0.

NEW BUSINESS

Brendan Summerville, Comm. Dev. Associate introduced Trent Reid as a new Planning and Zoning Commission (at-large).

Motion was made by James Clemmer, seconded by Steve Marx to adjourn. The motion carried unanimously 6 - 0.

Chair

Date

City of Bethany
Planning & Zoning Staff Report
September 21, 2023

Short Term Rental Ordinance

Discussion: Short-term rentals, vacation home rentals, etc. have been a growing trend in the way travelers visit and stay within cities. Currently, the City of Bethany has no ordinance that governs, monitors, or regulates these operations. Staff have received multiple inquiries regarding the legality and regulation of these businesses, in addition to code enforcement concerns over temporary tenants.

Should further input and/or alterations be made to the proposed ordinance?

Ordinance: The proposed ordinance requires prospective operators to apply for and obtain a license through the City of Bethany prior to operation. Licensing may only occur after an annual fee of \$150 has been paid, an inspection of the property by the city inspector, hotel occupancy tax forms, and proof of liability insurance coverage. By virtue of these requirements, a short-term rental location will be held to standards that uphold city standards, occupancy limits set by the Bethany Fire Chief, permits the city to intake hotel tax (5.5%, §38.63), and would provide a codified chain of accountability for code violations.

The proposed ordinance holds the guests and operators to standards that are fitting of the Bethany code of ordinances. In the event of noise, garbage, disorderly conduct, and parking the proposed ordinance states that the guests will be held responsible for these violations. While the operator is responsible for maintaining 24-hour availability to both guests and the city. The goal of this clause is to ensure that inquiries from both the guests and city may be heard by the operator, so that they can be quickly addressed. The proposed ordinance does allow for the city to revoke the license of an operator at any time if it is deemed fit and necessary to do so.

For the sake of comparison, the proposed ordinance would not be the first within Oklahoma or the OKC Metro. Cities that have an ordinance and require licensing include Oklahoma City, Tulsa, Norman, and Broken Arrow. The cities of Edmond and Mustang define short term rentals in their respective ordinances, however, they both levy hotel tax on short-term rentals. The proposed ordinance in Bethany most closely resembles that of Norman in both wording and fees at \$200 for an annual license. Broken Arrow, Tulsa, and Oklahoma City all utilize similar ordinances, however, have radically different fee structures, charging \$500, \$375, and \$24 respectively.

Continued Research:

Based on questions put forward by the Planning & Zoning Commission on the 6th of July meeting, staff has compiled information regarding the strength and clarity of the proposed ordinance.

1. How do we know how much hotel tax each short-term rental will have to pay and if they are paying?
 - a. *The standard hotel tax will be enforced, and the city's Finance Department will determine appropriate actions to ensure that these taxes are reported and received. AirBnB & VRBO report sales tax but must be notified to include hotel taxes in their sale totals.*
2. How would "homes" be defined, and may certain portions of a home (attached/detached garage, accessory structure, etc.) qualify within the ordinance?
 - a. *The city will recognize only a permitted dwelling unit, regardless of residential zoning category, allowing the renting of entire dwelling units and individual bedrooms. Detached structures (garages/sheds) will not be allowed, as accessory dwelling units are not permitted within city limits (§158.044).*
 - b. *Permitted dwelling units include detached single-family dwellings, apartment houses, condominiums, du/tri/quadplexes, mobile homes, or any such portion of the dwellings.*
3. What would an appropriate fee amount to?
 - a. *\$150 would account for the staff time required to file, review, inspect, and approve the license.*
4. If an operator is found to be in violation of the ordinance, would the city be able to issue NOVs and/or tickets through code enforcement?
 - a. *Yes, the city would be able to issue tickets and NOVs to those found to be in violation.*
5. How would the city enforce the new ordinance regarding existing operators?
 - a. *The city would identify and contact existing operators prior to a public hearing with the city council, so that their input may be heard.*
6. Would it be possible to instead require applicants go through the special use permitting process?
 - a. *While legally and technically possible, this would raise the cost burden of citizens from \$150 per year to \$494, require hearings with both the Planning & Zoning Commission and Bethany City Council, and take between 60 & 90 days for approval.*
7. Would the fire marshal be able to inspect these properties for an appropriate maximum occupancy?
 - a. *The Fire Marshal has commented that such inspections would not be necessary.*

8. Would this supersede existing neighborhood covenants or organizations?
 - a. *No, the proposed ordinance would not supersede these covenants or organizational agreements.*
9. Would this ordinance limit the ability of property owners to rent out their property for events, i.e., weddings, birthday parties, and pool parties?
 - a. *No, this ordinance is concerned with the lodging, dwelling, or sleeping purposes of persons for any period less than thirty (30) days. Parties in which no persons are paying for overnight lodging are exempt from this ordinance.*

Conclusion: The need for a short-term rental ordinance is still a present need within Bethany. The revised ordinance is more focused in its scope, while maintaining a clear intent to protect and promote the health, safety, and welfare of the public.

Discussion Questions:

1. What other wording, if any, would you change to the proposed ordinance?
2. What other questions or concerns does the commission have regarding the proposed ordinance?

City	Est. Short Term Rental Properties	Fee	Est. Annual Revenue
Bethany	15	\$150	\$2,250
Oklahoma City	1,200	\$24	\$28,800
Tulsa	650	\$375	\$243,750
Norman	275	\$200	\$55,000
Broken Arrow	175	\$500	\$87,500
Mustang	38	N/A	N/A
Edmond	140	N/A	N/A

159.045 SHORT TERM RENTALS

(A) The purpose of this article is to establish regulations for the use of privately-owned dwellings as Short-Term Rentals, to *protect the health, safety, and welfare of the public through licensing and inspections*, and to ensure the collection and payment of Hotel Occupancy Tax.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Bethany, Oklahoma.

GUEST. The overnight occupants renting a Short-Term Rental Unit for a specified period and the daytime visitors of the overnight occupants.

LOCAL CONTACT PERSON. The Owner, Operator, or person designated by the Owner or the Operator, who shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short-Term Rental.

OPERATOR. The Owner or the Owner's authorized representative who is responsible for compliance with this Article while advertising and/or operating a Short-Term Rental.

OWNER. The person or entity that holds legal or equitable title to the Short-Term Rental property.

SHORT TERM RENTAL. A privately owned dwelling, including but not limited to, a single-family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, mobile home, or any portion of such dwellings, rented by the public for consideration and used for dwelling, lodging or sleeping purposes for any period less than thirty (30) consecutive days.

The following are exempt from the regulations under this article: hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, hallway house, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by governmental agency and used to house its employees or for governmental purposes.

SHORT TERM RENTAL PERMIT. A permit issued by the City authorizing the use of a privately-owned dwelling as Short-Term Rental.

SHORT TERM RENTAL UNIT. One or more habitable rooms forming a single habitable division within a Short-Term Rental, or an entire undivided Short-Term Rental, which is advertised to be occupied, is occupied, or is intended to be occupied by a single party of Guests under a single reservation and /or single rental payment.

(C) SHORT TERM RENTAL PERMIT REQUIRED. It shall be unlawful for any person or entity to rent, or offer to rent, any Short-Term Rental without a valid Short-Term Rental Permit issued under this Article.

(D) SHORT TERM RENTAL PERMIT APPLICATION REQUIREMENTS. An applicant shall submit an application for a Short-Term Rental Permit using a format and method promulgated by the City Manager or his/her designee.

1. An application packet for a Short-Term Rental Permit shall be completed and submitted to the City of Bethany Community Development Department by the owner of the short-term rental on forms provided by the City of Bethany Community Development Department and shall include, or be followed by, the following information:

- a) A list of all property owners of the Short-Term Rental including names, addresses and telephone numbers. Property ownership for the purpose of this Ordinance shall consist of those persons listed on the Oklahoma County tax records.
- b) A certification by a City of Bethany Building Inspector.
- c) The name, address and telephone numbers of the Contact Person who shall be responsible for authorized to respond to complaints concerning the use of the short-term rental.
- d) Proof of liability insurance coverage on the Short-Term Rental.
- e) Completed Hotel Occupancy Tax Form [insert ordinance]

2. This ordinance does not affect any restrictive covenants, precluding the rental of property, homeowner associations, and other legally binding neighborhood agreements.

2. An applicant for a Short-Term Rental Permit shall pay to the City a permit fee of one hundred fifty dollars (\$150).

3. A separate Short-Term Rental Permit application and permit fee must be submitted for each individual Short-Term Rental Unit. Each individual Short-Term Rental Unit shall be assigned a unique permit number upon permit issuance by the City.

4. Prior to issuance of a Short-Term Rental Permit, the Operate shall allow an on-site inspection of the Short-Term Rental Unit by a City Building Inspector, to ensure [insert correction ordinance here]

5. A Short-Term Rental Permit issued under this Article shall be valid for a period of one calendar year from the date of issuance. The Short-Term Rental Permit shall expire immediately upon any change in Owner of the Short-Term Rental Unit.

6. The Owner has a duty to notify the City within twenty (20) calendar days, in writing, of any changes to information submitted as part of a Short-Term Rental Permit application under this article.

7. An applicant for Short Term Rental Permit may be denied if the Owner has had a Short-Term Rental Permit suspended or revoked during the previous 365 calendar days.

(E) SHORT-TERM RENTAL OPERATIONAL REQUIREMENTS.

1. The Operator shall post the following information in a prominent location within the Short-Term Rental Unit, using a form promulgated by the City:

- a) The unique Short-Term Rental Permit number assigned to the Short-Term Rental Unit;
- b) Operator name and number;
- c) Local Contact Person name and number;
- d) The location of any on-site and off-site parking spaces available for Guests;
- e) The overnight and daytime occupancy limits;
- f) Instructions to Guests concerning disposal of garbage and handling of garbage containers;
- g) Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short-Term Rental, and that Guests may be fined by the City for violations of this Article; and
- h) Notification that all functions such as weddings, parties or other gatherings are prohibited in the Short-Term Rental, with the exception of the Central Business District.

2. The Operator shall operate a Short-Term Rental in compliance with the following:

- a) Zoning regulations prescribed for the zoning district in which such Short-Term Rental is located, set forth in [Chapter 158: Zoning].
- b) City of Bethany Sign Ordinance, as applicable, set forth in [Chapter 153: Signs]
- ~~c) Maximum occupancy limits prescribed by the City Fire Chief, pursuant to the International Fire Code as adopted in [insert here]~~
- d) City of Bethany Hotel Occupancy Tax Ordinance, set forth in [§38.61-84]
- e) City of Bethany Noise and Sound Level Regulation Ordinance, set forth [insert here]
- f) City of Bethany Garbage Collection Ordinance, set forth [insert here]
- g) During any period when a Short-Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available twenty-four (24) hour per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short-Term Rental. The Local Contact Person shall respond within sixty (60) minutes of being notified of concerns or requests for assistance regarding the condition, operation, or conduct of Guests of the Short-Term Rental, and shall take immediate remedial action as needed to resolve such concerns or requests for assistance.
- h) The hours of 10:00 pm until 7:00 a.m. the next day are required quiet time. Renters who violate this standard may be issued a citation and be subject to a fine pursuant to this Ordinance.

(3) Any advertisement that promotes the availability of a Short-Term Rental, listed in any medium, including but not limited to newspaper, magazine, brochure, website or mobile application, shall include the current Short-Term Rental Permit number assigned by the City.

(F) NOTIFICATIONS OF COMPLAINTS. Complaints related to the operation of a Short-Term Rental, including but not limited to complaints concerning noise, garbage, parking and disorderly conduct by Guests, shall be reported to the City Code Enforcement Office.