

# **City of Smithville Code of Ordinances**



## **Chapter 14 - Zoning**

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# 1. PROVISIONS

## 1.1. Title

The official title of this document is "Zoning Ordinance of the City of Smithville, Texas," although it may be referred throughout this document as the "Zoning Ordinance" or the "Ordinance" or the "Chapter".

## 1.2. Effective Date

This Ordinance shall become effective immediately upon its passage and publication, as the law in such cases provides, and it is accordingly so ordained.

## 1.3. Previous Zoning Ordinance Repealed

The text of the Zoning Code of the City of Smithville is hereby amended and reenacted in its entirety, replacing all prior provisions with the provisions herein.

## 1.4. Purpose and Intent

It is hereby declared to be the purpose and intent of the City Council in enacting this Ordinance that the zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with a comprehensive plan.

In interpreting and applying the provisions of this Ordinance, said provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control.

## 1.5. Authority

The provisions of this chapter are adopted in the exercise of the power granted municipalities by these statutes and pursuant to the provisions of Chapter 211, Texas Local Government Code.

## 1.6. Applicability

This chapter shall apply within the corporate limits of the City to all private lands and uses thereon, over which the city has jurisdiction under the constitution and laws of the State of Texas and of the United States. This chapter shall further apply to any and all legal annexations of land or additions made to the City subsequent to the adoption of this chapter.

### 1.7. Consistency with the Comprehensive Plan

Pursuant to Texas Local Government Code § 211.004, this chapter is intended to implement the goals, objectives and policies of the comprehensive plan and is hereby deemed to be consistent and in accordance with the comprehensive plan. Any amendments to this chapter, including any rezoning approved pursuant to this chapter, shall be consistent with the comprehensive plan in effect at the time of such request for amendment.

### 1.8. Rules of Construction and Interpretation

For the purpose of these regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory.

### 1.9. Errors and Omissions

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

### 1.10. Compliance Required

All land, buildings, structures, or appurtenances thereon located within the city which are occupied, used, erected, altered, or converted shall be used, placed and erected in conformance with the zoning regulations prescribed for the district in which such land, buildings, structures, or appurtenances are located except as hereinafter provided. Land used in meeting the requirements of this Ordinance with respect to a particular use or building shall not be used to meet the requirements for any other use or building.

### 1.11. More Restrictive District Controls

Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions as set forth in the regulations of the most restricted district in which such uses are permitted unless otherwise specified.

## 1.12. Official Zoning Map

- 1.12.1. The boundaries of Zoning Districts set out herein are delineated upon a map of the City adopted as part of this Ordinance as fully as if the same were set forth herein in detail.
- 1.12.2. One (1) original of Zoning District Map shall be filed in the office of the city secretary.
- 1.12.3. An additional copy of the original Zoning District Map shall be placed in the office of the building official. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments.

## 1.13. Zoning District Boundaries

- 1.13.1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- 1.13.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 1.13.3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- 1.13.4. Boundaries indicated as following railroad lines shall be construed to be the established centerline of the right-of-way or if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.

## 1.14. Zoning of Newly Annexed Land

- 1.14.1. All territory hereafter annexed to the city of Smithville shall automatically be classified as SF-1: Single Family Residential.
- 1.14.2. More permissive zoning for newly annexed land consistent with the land use designation of the comprehensive plan may be applied for by following the procedure herein for a zoning amendment, and such application may be processed simultaneously with the annexation.

## 1.15. Nonconforming Uses and Nonconforming Structures

- 1.15.1. By the passage of this Ordinance no presently illegal use or building shall be deemed to have been legalized unless such use falls within a district where the actual use and standards under the terms of this Ordinance would be conforming.
- 1.15.2. No offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the previous Zoning Ordinance was repealed and this Ordinance adopted shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded within all respects as if such prior Ordinance had not been repealed.
- 1.15.3. Definitions.
  - A. *Nonconforming Use.* A "nonconforming use" is a use that does not conform to the provisions of this Ordinance, but that lawfully existed under the regulations in force at the beginning of such use.
  - B. *Nonconforming Structure.* A "nonconforming structure" is a structure that does not conform to the provisions of this Ordinance, but that was lawfully constructed under the regulations in force at the time of construction.
- 1.15.4. Requirements for the continuance of nonconforming structures:
  - A. Nonconforming structures are permitted, subject to the following regulations:

1. Normal repairs and maintenance may be made to a nonconforming structure; provided that no structural alterations shall be made except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms.
2. Unless otherwise provided, a nonconforming shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the district in which such nonconforming structure is located.
3. A nonconforming structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the district in which it is to be located.
4. If a nonconforming structure is damaged or destroyed by fire, explosion, act of God, or the public enemy, and the building official determines that that the cost of necessary repairs would be less than fifty (50) per cent of its appraised value as determined by the Bastrop Central Appraisal District value, then restoration or new construction shall be permitted in conformance with the regulations in place at the time of the original construction of the nonconforming structure, provided that construction must begin within six (6) months of damage or destruction, such construction is diligently pursued to completion, and the square footage of the nonconforming structure is not increased. If a nonconforming structure is damaged, destroyed, or declared unsafe by the building official, and the building official determines that the cost of necessary repairs would be equal or greater than fifty (50) percent of its appraised value as determined by the Bastrop Central Appraisal District, such nonconforming structure, if repaired or replaced, shall conform to all regulations of the district in which it is located, and it shall be treated as a new building.
5. A nonconforming structure that is vacant prior to the enactment of this Ordinance may be occupied by a use for which the nonconforming structure was designed or intended, if so occupied within a period of ninety (90) days after the effective date of this Ordinance. A nonconforming structure which becomes vacant after the effective date of this Ordinance may be re-occupied by the use for which the building or structure was designed or intended, if so occupied within a period of ninety (90) days after the nonconforming structure becomes vacant. All such buildings, after ninety (90) days of vacancy, shall be converted to a conforming use.

B. Nonconforming uses are permitted subject to the following regulations:

1. A nonconforming use may not be changed to a use which does not conform to the requirements of the district in which it is situated.
2. A nonconforming use shall not be expanded or increased in any manner. Expanding or increasing a nonconforming use includes but is not limited to: (1) adding off-street parking to accommodate the nonconforming use; and (2) adding a patio cover, porch, or canopy to accommodate the nonconforming use.
3. If a nonconforming use is discontinued for a period of ninety (90) days, as reasonably determined by the city manager, or changed to a conforming use, any future use of the relevant land, building, structure, or portion thereof shall conform to the regulations of the district in which such land, building, or structure is located.
4. A sign, billboard, or poster panel which lawfully existed and was maintained at the time of either the effective date of this Ordinance, or the date that the property on which the sign, billboard, or poster panel is located was annexed into the City may be continued, although

such use does not conform with the provision of this Ordinance, provided, however, that no structural alterations are made thereto.

5. Nonconforming use of land for manufactured home shall allow replacement of such manufactured home only as consistent with the City's manufactured housing ordinance

#### 1.15.5. Abandonment

A nonconforming use which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:

- A. The intent of the owner to discontinue the use is apparent; or,
- B. The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within ninety (90) days; or
- C. The building, structure or land, or portion thereof, in which a nonconforming use is conducted that is or that hereafter becomes vacant and remains unoccupied for a period of ninety (90) days; or
- D. A nonconforming use has been replaced by a conforming use.

#### 1.15.6. Change in District Boundaries

Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district, or when the boundaries of districts are changed as the result of annexation of new territory or changed in the regulations or restrictions of this Ordinance, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may become nonconforming.

### 1.16. Un-platted Property

- 1.16.1. The planning and zoning commission shall not approve any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.
- 1.16.2. The planning and zoning commission shall not approve any plat of any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the City Council.
- 1.16.3. In the event the planning and zoning commission holds a hearing on proposed annexation, it may, at its discretion, at the same time hold a hearing upon the permanent zoning that is to be given to the area or tract to be annexed, and make a recommendation on both matters to the City Council so that the City Council can, if it desires, act on the matter of permanent zoning and annexation at the same time.

### 1.17. Exemptions

- 1.17.1. The requirements of this chapter shall not apply to a building, other structure, or land under the control, administration, or jurisdiction of a municipal, state or federal agency.
- 1.17.2. The requirements of this chapter shall not apply to any use or activity exempt from zoning, pursuant to Texas Local Government Code § 211.013.

## 1.18. Fees

- 1.18.1. An applicant requesting an amendment, supplement, change, special use permit, modification of, or variance to this Ordinance, including the zoning district map, shall deposit with the City Secretary a fee as specified in the current schedule of fees, which is subject to periodic revision by the City Council. Special Use permits must be renewed annually.
- 1.18.2. Any request for a proposed amendment, supplement or change to this Ordinance submitted to the City Council shall be accompanied by a fee set by resolution, to be paid by the applicant.

## 1.19. Administration and Enforcement

- 1.19.1. The administrative official, for the purposes of this chapter, shall be the City Manager or such other person as may be designated by the City Manager. Without limitation, the building official shall ordinarily administer and enforce the provisions of this chapter.
- 1.19.2. The building official or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out the duty of enforcing this Chapter.
- 1.19.3. Whenever any construction work is being done contrary to the provisions of this Chapter, the building official may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work.
- 1.19.4. A careful record of all applications shall be kept in the office of the building official, or such other person as may be designated by the City Council.

## 1.20. Penalty

- 1.20.1. Any person or entity who shall violate any of the provisions of this Ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor.
- 1.20.2. Each day such violation shall be permitted to exist shall constitute a separate offense.
- 1.20.3. Any such building or use in violation of this article shall be removed or discontinued from the site before liability will be removed and before a building or use permit will be issued for that site.
- 1.20.4. The owner or owners of any building or premises or part thereof, where anything in violation of this Ordinance shall be placed or shall exist; and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violations shall be guilty of a separate offense and upon conviction, shall be fined as herein provided.

## 1.21. Severability

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

## 1.22. Building Permit Required

- 1.22.1. It shall be unlawful for any person, firm, or corporation to commence the construction, enlargement or structural alteration of any building in the city, or to use or occupy the same without first applying for and securing a building permit, or to use or occupy the same without first securing a certificate of occupancy and compliance from the city secretary or such other official designated by the city manager.
- 1.22.2. Neither a building permit nor a certificate of occupancy shall be granted before a property is zoned in accordance with this chapter.

## 2. ZONING CATEGORIES

### 2.1. Zoning Categories Established

The following districts are hereby established for the City:

#### 2.1.1. Residential Districts:

- A. SF-1 Single Family District
- B. SF-2 Single Family & Duplex District
- C. TH Townhouse District
- D. MF Multiple Family District
- E. MH Manufactured Housing Park District
- F. MHS Manufactured Home Subdivision
- G. MR Mixed Residential

#### 2.1.2. Commercial Districts:

- A. C-1 Neighborhood Shopping District
- B. C-2 General Commercial District
- C. C-3 Highway Commercial District
- D. CBD Central Business District (Mixed Use)
- E. RVP Recreational Vehicle Park District

#### 2.1.3. Industrial Districts:

- A. I Industrial District

#### 2.1.4. Public and Quasi-Public Districts:

- A. P Parks and Open Space District
- B. CF Community Facilities District (Government, Health Care, and Education)

#### 2.1.5. Planned Development Districts:

- A. PD Planned Development District (Alternative Standards and/or Mixed Use)
- B. PD-Z Zero Lot Line Garden Home District

#### 2.1.6. Overlay Districts:

- A. HD Historic Overlay District

2.2. **Zoning Categories.** The following regulations apply within the indicated zoning districts. Uses indicated “by right” are permitted by right within the relevant district, provided that such uses and the land on which they are located otherwise comply with this Ordinance. Uses indicated “SUP” are permitted within the relevant district following the issuance of a special use permit and provided that such uses and the land on which they are located otherwise comply with this Ordinance. Uses not listed or otherwise authorized within a zoning district are prohibited.

2.2.1. SF-1 – Single Family Residential District

A. Description

The SF-1 Single Family Residential District, or SF-1 District, is the most restrictive zoning district. The principal use of land is for single-family dwellings. These residential areas are appropriate to residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

B. Uses

USE	BY RIGHT	SUP
Single family dwelling	X	
Accessory buildings	X	
Private garage	X	
Home-based business		X
Religious Facility		X
Public Safety Facility	X	
Public Recreation Facility	X	
Child care center		X
Educational facility		X
Bed and breakfast		X
Boarding house		X
Country inn		X
Guest house/studio		X

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum Height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard setback, primary building	7 ½ feet (one story building)	or 10 feet for buildings over one story

Minimum side yard setback, corner lots, first 65ft from front property line	15 feet	25 feet when abutting another corner lot
Minimum side yard setback, corner lots, greater than 65ft from front property line	7½ feet	or 10 feet for buildings over one story
Minimum side yard setback, churches	25 feet	
Minimum side yard setback, accessory building	3 feet	
Minimum rear yard setback (min. setback is the smaller of the two)	20 feet	or 20% of lot depth
Minimum rear yard setback, accessory buildings	3 feet	
Minimum lot size, residential lots	6,500 sf	
Minimum lot size, religious facilities and country inns	21,000 sf	
Minimum lot size, all other uses	Accommodate setbacks and parking needs	
Minimum lot width	50 feet at front building line	and 35 feet at street
Maximum lot coverage by all buildings on the lot	40% lot area	
Maximum rear yard coverage by accessory buildings	30% rear yard	

#### D. Additional Site Design Standards

##### 1. Setback Conditions

- a. Corner lots shall not be considered abutting when separated by an access easement or alley.
- b. Unattached accessory buildings may only be located in the rear yard of a main building.

##### 2. Fences

Fences shall be permitted in the SF-1 zoning district, provided that:

- a. No solid fence or enclosure shall exceed a height of six (6) feet measured from ground level at location of fence, and no such six (6) foot fence or enclosure shall extend closer to any front street than twenty-five (25) feet.
- b. An ornamental fence may exceed six (6) feet in height but may not be higher than eight (8) feet and shall have a ratio of solid portion to open portion not in excess of one (1) to four (4) and shall not extend closer to any front street than twenty-five (25) feet.
- c. Any fence or enclosure closer than twenty-five (25) feet to the front street shall not

exceed a height of four (4) feet, and any fence, hedge, or enclosure wall on a corner lot, and situated within fifteen (15) feet of the intersections of the two (2) street lines, shall not exceed a height of three (3) feet.

2.2.2. SF-2 – Single Family and Duplex District

A. Description

The SF-2 Single Family and Duplex District, or SF-2 District, is slightly less restrictive than the SF-1 District. The principal use of land is for single-family dwellings and duplexes. These residential areas are intended to be defined and protected from the encroachment of uses which are not appropriate to residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

B. Uses

Cumulative rights of use. All uses permitted in the SF-1 district are permitted in the SF-2 district. All permissible uses in addition to those permitted in SF-1 are listed in the table below.

USE	BY RIGHT	SUP
Duplex or two-family dwelling	X	
Garage apartment	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum Height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum setback of accessory building from front property line	65 feet	
Minimum side yard setback, primary building	5 feet (one story building)	or 10 feet for buildings over one story
Minimum side yard setback, corner lots, first 65ft from front property line	15 feet	25 feet when abutting another corner lot
Minimum side yard setback, corner lots, >65ft from front property line	5 feet	or 10 feet for buildings over one story
Minimum side yard setback, churches	25 feet	
Minimum side yard setback, accessory building	3 feet	
Minimum rear yard setback (min. setback is the smaller of the two)	20 feet	or 20% of lot depth

Minimum rear yard setback, accessory buildings	3 feet	
Minimum lot size, residential lots	6,500 sf	And at least 3,250sf per dwelling unit
Minimum lot size, religious facilities and country inns	21,000 sf	
Minimum lot size, all other uses	Accommodate setbacks and parking needs	
Minimum lot width	50 feet at front building line	and 35 feet at street
Maximum lot coverage by all buildings on the lot	40% of lot area	
Maximum rear yard coverage by accessory buildings	30% of rear yard	

D. Additional Site Design Standards

1. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
2. Unattached accessory buildings may only be located in the rear yard of a main building.

2.2.3. TH – Townhouse District

A. Description

The TH Townhouse District, or TH District, is a residential district designed to allow the use of existing partial lots without having to aggregate two or more lots to meet side yard and frontage requirements for single family homes. It also opens the way for additional townhouse developments in response to market demands for such housing.

B. Uses

Cumulative rights of use. All uses in the SF-2 District are permitted in the TH Townhouse District. All permissible uses in addition to those permitted in SF-2 are listed in the table below.

USE	BY RIGHT	SUP
Townhouse	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Height	2 ½ stories	or 35 feet
Minimum front yard setback	15 feet	

Minimum rear yard setback (min. setback is the smaller of the two)	20 feet <sup>(1)</sup>	or 20% of lot depth
Minimum side yard setback, end unit, corner lot	15 feet <sup>(1)</sup>	
Minimum side yard setback, end unit, interior lot	7½ feet <sup>(1)</sup>	
Minimum lot size, residential	3,125 sf	
Minimum lot size, all other uses	Accommodate setbacks and parking needs	
Minimum lot width	25 feet	
Minimum lot depth	125 feet	
Maximum lot coverage by all buildings on the lot	70% lot area	
Minimum open space	30% gross land area	

NOTES:

1. Setbacks are applicable to yard conditions where there is not a shared wall with a neighboring unit. Where there is a shared wall, the minimum required setback is 0 feet.

D. Additional Site Design Standards

1. Unattached accessory buildings may only be located in the rear yard of a main building.

2.2.4. MF – Multiple Family Residential District

A. Description

The MF Multiple Family Residential District, or MF District, is a district to provide for medium and high population density. The principal use of land may range from single-family to multiple family and garden apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses permitted. The recreational, religious and educational facilities normally required to provide an orderly and attractive residential area are permitted. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and relationship of each use permitted in the District.

B. Uses

Cumulative rights of use. All uses permitted in the SF-2 District are permissible in the MF District. All permissible uses in addition to uses permitted in the SF-2 District are listed in the table below.

USE	BY RIGHT	SUP
Multiple family dwelling	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard	25 feet	
Minimum rear yard setback	25 feet	or 50 feet (including parking areas) if lot backs up to SF-2 or more restrictive district
Minimum open space	30% gross land area	
Maximum lot coverage by all buildings on the lot	70 % lot area	

D. Additional Site Design Standards. The following design standards apply to multiple family dwellings:

1. A brick, stone or acceptable masonry wall or solid wood fence not less than six (6) feet high must be provided along rear property line when a lot on which there is a multiple family dwelling abuts property zoned SF-2 or more restricted.
2. Open space shall be used for people, planting, and visual appeal.
3. Any room other than a living room, bathroom, dining room and kitchen shall be counted as a bedroom.
4. The minimum lot size is the greater of 15,000 square feet or the square footage calculated according to the following schedule:
  - a. Each Efficiency unit: 500 square feet
  - b. Each 1-bedroom unit: 600 square feet
  - c. Each 2-bedroom unit: 800 square feet
  - d. 3-bedroom: 1,000 square feet
  - e. More than 3bedrooms: 1,000 square feet + 200 square for each bedroom in excess of three.
  - f.
5. More than one multifamily building may be built on a single lot.
6. The minimum distance between multifamily buildings is twenty (20) feet.

### 2.2.5. MH – Manufactured Housing Park Residential District

#### A. Description

The MH Manufactured Housing Park Residential District, or MH District, is a district to provide for medium and high population density in manufactured single-family dwellings and manufactured homes. The principle use of land is intended to be manufactured housing in a licensed manufactured housing park setting but uses may range from single-family to multiple family dwellings. Internal stability, attractiveness, order, and efficiency are encouraged by providing for

adequate light, air and open space for dwellings and relationships for each use permitted in the District.

B. Uses

Cumulative rights of use. All uses permitted in the MF District are permissible in the MH District. All permissible uses in addition to uses permitted in the MF District are listed in the table below.

USE	BY RIGHT	SUP
Manufactured home	X	
Temporary construction building	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	35 feet
Minimum front yard setback	25 feet if fronting a public street	or 10 feet if fronting an internal (private) street
Minimum side yard	15 feet if centered within lot	or 30 feet if home is on a lot line
Minimum rear yard setback	25 feet if abutting a public street	or 10 feet if abutting an internal (private) street
Minimum distance between buildings	30 feet	
Minimum size of manufactured housing park	¾ acre	
Minimum lot size (the larger of the two measured values)	3,000sf	Or 3 times the area of the home

D. Additional Site Design Standards

1. Licensing: All manufactured home parks shall be licensed and shall comply with all licensing requirements for manufactured home parks provided in Article 4 of this Ordinance, titled Standards for Particular Uses.
2. Streets and Walkways: Each MH Park shall have direct access to a public street and each manufactured home space shall have direct access to a public street or to a private street provided by the owner of the MH Park. If the MH Park owner uses private streets, they will dedicate a minimum of 15 feet as an emergency access easement. If the private street does not join at both ends to a public street, a turn-around will be provided with a minimum sixty

(60) foot diameter. Private streets will be paved and guttered to city specifications and will provide a 48-inch wide pedestrian access to each home from the street.

3. Utility Services: In the layout of MH Parks, the owner shall provide a utility easement appropriate to the number and size of each utility. Each lot will be provided with an electrical utility pole for meter placement. Water will be supplied to a water meter furnished by the city with the MH Park owner responsible for the line from the meter to the home. Sewer will be provided by the city with the MH Park owner responsible for the line from the sewer main to the home. Solid Waste can be individual home pick up or group containers at the MH Park owners' option. If group container is selected it must be screened and kept clean by the owner. Drainage plans must be drawn up by the owner and submitted to the city before a MH Park will be approved. Gas will be supplied by the natural gas supplier for the city.
4. Fire Protection and Tie Down Requirements: Each manufactured home will have fire resistant skirting around the base of the home with the appropriate number of vents, screens and/or openings. This must be a condition of rental of the space and needs to be accomplished within 30 days of placement of the home. Each home will conform to the tie down requirements of the Texas Department of Housing and Community Affairs for a Non-Hurricane Zone. This requirement will also be a condition of rental of space in the MH Park.
5. Noise Barrier Required: A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses and activities on commercial properties, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH, or any other residential district.

#### 2.2.6. MHS – Manufactured Home Subdivision District

##### A. Description

The MHS Manufactured Home Subdivision District, or MHS District, is designed to allow HUD Code Manufactured Homes to be placed in a subdivision that has some appearance, spacing and square footage controls. The density of housing is intended to be no greater than that allowed in SF-1 Districts.

##### B. Uses. The uses listed below are permissible in the MHS District.

USE	BY RIGHT	SUP
Single family dwelling	X	
Manufactured home	X	
Home-based business		X
Child care center		X
Bed and Breakfast		X
Boarding House		X
Country inn		X
Public safety facility	X	
Public recreation facility	X	
Accessory buildings	X	

##### C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Minimum size of mobile home subdivision	2 ½ acres	
Maximum building height	1 ½ stories	or 20 feet
Minimum front yard setback	25 feet	
Minimum side yard	7 ½ feet for one story buildings	10 feet for buildings over one story
Minimum side yard, accessory buildings	3 feet	
Minimum side yard, corner lots	15 feet when backing onto another corner lot	25 feet for all other conditions
Minimum rear yard setback (smaller value is the standard)	25 feet	or 20% of the lot depth
Minimum rear yard setback, accessory buildings	3 feet	
Minimum lot width	50 feet at front building line	and 35 feet at street
Minimum lot area, residences	6,500 sf	
Minimum lot area, other uses	Accommodate setbacks and parking needs	
Maximum lot coverage by buildings	40% of lot area	
Maximum rear yard coverage by accessory buildings	30% of rear yard	

D. Additional Site Design Standards

1. Corner lots shall not be considered abutting when separated by an access easement or an alley.
2. Unattached accessory buildings may be located in the rear yard of a main building.

2.2.7. MR – Mixed Residential District

A. Description

The MR Mixed Residential District, or MR District, is less restrictive than SF-1 or SF-2 Districts. The principal use of land is for single-family dwellings and duplexes. It is also a district where HUD Code Manufactured Housing (both single and double-wide) can be used as dwellings outside of a Manufactured Home Park and a Planned Development Subdivision. This residential area is intended to be defined and protected from the encroachment of uses that are not appropriate to residential environments. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

B. Uses

Cumulative rights of use. All uses permitted in the SF-2 District are permissible in the MR District. All permissible uses in addition to uses permitted in the SF-2 District are listed in the table below.

USE	BY RIGHT	SUP
Garage apartment	X	
Manufactured home	X	
Temporary construction building	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard	5 feet for one story buildings	10 feet for buildings over one story
Minimum side yard, accessory buildings	3 feet	
Minimum side yard, corner lots	15 feet when abutting another corner lot	25 feet for all other conditions
Minimum side yard, churches	25 feet	
Minimum rear yard setback (smaller value is the standard)	20 feet	or 20% of the lot depth
Minimum rear yard setback, accessory buildings	3 feet	
Minimum lot width	50 feet at front building line	and 35 feet at street
Minimum lot area, residences	6,500 sf	or 3,250 per dwelling unit
Minimum lot area, churches	21,000 sf	
Minimum lot area, other uses	Accommodate setbacks and parking needs	
Maximum lot coverage by buildings	40% of lot area	
Maximum rear yard coverage by accessory buildings	30% of rear yard	

D. Additional Site Design Standards

1. The minimum size of a MR Mixed Residential District is two contiguous city blocks. Two contiguous city blocks share a common street. Two blocks diagonal from each other do not qualify. All property owners within the proposed area must request a zone change to the MR District.

2. Unattached buildings of accessory use may be located in the rear yard of a main building.

### 2.2.8. C-1 Neighborhood Shopping District

#### A. Description

The C-1 Neighborhood Shopping District, or C-1 District, is for the conduct of retail trade and personal service enterprises to meet the regular needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closer associated with residential, religious, recreational and educational uses, requirements for light, air and open space and off-street parking are more restrictive than those of other commercial districts. The C-1 District is the most restrictive commercial district.

#### B. Uses

Cumulative rights of use. All uses permitted in the MF District are permissible in the C-1 District. All permissible uses in addition to uses permitted in the MF District are listed in the table below.

USE	BY RIGHT	SUP
Townhouse	X	
Office/professional services	X	
Limited retail	X	
Animal Services	X	
Country Inn	X	
Bed and Breakfast	X	
Service maintenance Facility	X	
Temporary construction building	X	
Accessory buildings	X	
Temporary Produce Stand	X	
Transportation	X	

#### C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard	10 feet	
Minimum rear yard setback	10 feet	
Minimum lot size, country inn and religious facilities	21,000 sf	

#### D. Additional Site Design Standards

1. A building used for limited retail may not have more than forty (40) percent of its floor area devoted to purposes incidental to the primary use. No material or goods offered for sale or

- stored in connection with the limited retail shall be displayed or stored outside of a building.
2. There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30) feet wide abutting the property or right of way immediately behind property used for commercial uses.
  3. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all commercial uses, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH, or any other residential district.
  4. For country inns, the lot area shall be adequate to provide the yard areas required by this section and the required off-street parking area, provided that the lot area for a country inn shall not be less than twenty-one thousand (21,000) square feet.

2.2.9. C-2 – General Commercial District

A. Description

The C-2 General Commercial District, or C-2 District, is intended for the conduct of personal and business services and the general retail business of the community at locations with sidewalks and an identifiable edge that relates to the pedestrian. Persons living in the community and in the surrounding trade territory require direct and frequent pedestrian and vehicular access. Buildings should be located on or near the front building line with parking in the rear. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods. The C-2 District is less restrictive than the C-1 District.

B. Uses

Cumulative rights of use. All uses permitted in the C-1 District are permissible in the C-2 District. All permissible uses in addition to uses permitted in the C-1 District are listed in the table below.

USE	BY RIGHT	SUP
General retail	X	
Communications services	X	
Hotel/motel	X	
Commercial recreation	X	
Public recreation	X	
Warehouse and distribution	X	
Research and development	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard setback	10 feet	
Minimum rear yard setback	10 feet	

Minimum lot size, country inn	21,000 sf	
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D. Additional Site Design Standards

1. There shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments.
2. No article or material stored or offered for sale in connection with uses permitted in the C-2 General Commercial District shall be stored or displayed outside of a building unless it is screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level; provided, however, that no screening in excess of seven (7) feet in height shall be required.
3. There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30) feet wide abutting the property or right of way immediately behind property used for commercial uses.
4. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses and activities on commercial properties, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH or any other residential district.

2.2.10. C-3 – Highway Commercial District

A. Description

The C-3 Highway Commercial District, or C-3 District, is intended for the conduct of personal and business services and the general retail businesses of the community having space and land requirements not commonly available or compatible in central business district.

B. Uses

Cumulative rights of use. All uses permitted in the C-2 District are permissible in the C-3 District. All permissible uses in addition to uses permitted in the C-2 District are listed in the table below.

USE	BY RIGHT	SUP
Medical services	X	
Carnival		X
Automotive, marine and farm implements	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	25 feet	
Minimum side yard setback	10 feet	
Minimum rear yard setback	10 feet	
Minimum lot size, country inn	21,000 sf	

D. Additional Site Design Standards

1. There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30) feet wide abutting the property or right of way immediately behind property used for commercial uses.
2. All parking areas and drives shall be so designed so that adequate space is provided on the premises for the turning around of motor vehicles to prevent the need for vehicles to back onto the street or highway.
3. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses and activities on commercial properties, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH, or any other residential district.

2.2.11. CBD – Central Business District

A. Description

The CBD Central Business District, or CBD, is intended for the conduct of personal and business services, the general retail business of the community, quiet and clean manufacturing, and residential uses in the city center. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

B. Uses

Cumulative rights of use. All uses permitted in the C-3 District are permissible in the CBD. All permissible uses in addition to uses permitted in the C-3 District are listed in the table below.

USE	BY RIGHT	SUP
Mixed Use	X	
Animal services	X	
Carnival (temporary)		X
Administration	X	
Cultural	X	
Light Industrial / Mfg	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	50 feet	
Front yard setback	prohibited <sup>(1)</sup>	
Side yard setback	prohibited <sup>(1)</sup>	
Minimum rear yard setback	10 feet	

Minimum lot size, country inn	21,000 sf	
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NOTES:

1. Except by Variance

D. Additional Site Design Standards

1. Any retail or office use not specifically identified in this Section 2.2.11 which does not produce noise, odor, dust, vibration, blast or traffic in excess of those retail or office uses enumerated above may be permitted in the Central Business District with a special use permit.
2. There shall be provided an alley, service court, rear yard, or combination thereof in the rear yard setback space.
3. Off street parking requirements may be met at a remote site. Any building built before the date on which this ordinance is adopted is exempt from off-street parking requirements. Lawful uses within buildings constructed prior to the effective date of this ordinance are exempt from all off-street parking requirements.
4. No more than fifty (50) percent of the gross floor area of the ground floor of any building within the Central Business District, exclusive of the area used for utilities and building service, shall be used for storage, residential uses, or a combination thereof. The lawful use of any building, structure, or land existing on the effective date of this ordinance may continue, although such use does not conform to the provisions of this Section. Such lawful use shall, however, be subject to Section 1.15 Non-Conforming Structures and Uses.

2.2.12. RVP – Recreational Vehicle Park District

A. Description

Properly planned and operated recreational vehicle communities (i.e., recreational vehicle (RV) parks) promote the safety and health of the residents of such communities and of other nearby communities, encouraging economical and orderly development of such communities and of other nearby communities. It is, therefore, declared to be the policy of the City to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land. This shall include providing for planned and supervised recreational vehicle communities and for the standards and regulations necessary to accomplish these purposes.

- B. Uses. The uses listed below are permissible in the RVP Recreational Vehicle Park District, or RVP District.

USE	BY RIGHT	SUP
Recreational vehicle park	X	
Public safety facility	X	
Public recreation facility	X	
Accessory building	X	
Temporary construction building	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	35 feet	
Minimum Front yard setback	40 feet	
Minimum Side yard setback	40 feet	
Minimum rear yard setback	10 feet	

D. Additional Site Design Standards

Standards for recreational vehicle parks under Section 4.5 shall apply to all RV Parks.

2.2.13. I – General Industrial District

A. Description

The I General Industrial District, or I District, it is intended primarily for the conduct of manufacturing, assembling and fabrication. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air or street transportation facilities. The I District is the least restrictive district.

B. Uses

Cumulative rights of use. All uses permitted in the C-3 District are permissible in the I District. All permissible uses in addition to uses permitted in the C-3 District are listed in the table below.

USE	BY RIGHT	SUP
Mixed Use	X	
Bed and breakfast	X	
Country inn	X	
Administration	X	
Cultural facility	X	
Pawn Brokerage	X	
Sexually oriented business		X
Basic industry	X	
Light Industrial / Mfg.	X	
Cement, lime or gypsum manufacturing		X
Natural gas production and distribution		X
Petroleum production and refining		X
Wholesale or bulk storage of petroleum products		X
Disposal plants		X
Salvage yards		X

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	50 feet	

Minimum lot size, country inn	21,000 sf	
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D. Additional Site Design Standards

1. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses and activities on industrial properties, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH or any other residential district.
2. All salvage yards shall be screened by ornamental walls, fences, or evergreen planting such that the operations of the salvage yard and associated salvaged materials cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the salvage operation is located.
3. **The following uses may only be conducted if completely enclosed in a building:**
  - a. The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.
  - b. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bond, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, yard, and paint not employing a boiling process.
  - c. The manufacture of pottery and figurines or other similar ceramic products, using previously pulverized clay, and kilns fired only by electricity or gas.
  - d. The manufacture and maintenance of electric and neon signs, commercial advertising structure, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like.
  - e. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.
  - f. Automobile assembly, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing.
  - g. Machine shop.
  - h. Foundry casing lightweight nonferrous metal not causing noxious fumes or odors.
  - i. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacturing of small parts only, such as coils, condensers, transformers, crystal holders, and the like.

2.2.14. P – Parks and Open Space District

A. Description

The purpose of the P – Parks and Open Space District, or P District is to designate those parcels of public property that are dedicated parkland.

B. Uses

USE	BY RIGHT	SUP
Carnival (temporary)	X	
Public safety facility	X	
Public recreation facility	X	

C. Site Design Standards

1. No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
2. Off-street parking shall be provided consistent with the use of each particular park and recreation activity and in accordance Section 3.5 of this Ordinance.

2.2.15. CF – Community Facilities District

A. Description

CF – Community Facilities District, or CF District, is a public and quasi-public district that is intended for government, religious, educational, and other community facilities and services that are integral to the social fabric of Smithville. These uses require a separate zoning district because they do generate traffic and often require a large amount of parking. Persons living in the community and in the surrounding service areas require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles.

B. Uses

USE	BY RIGHT	SUP
Medical services	X	
Religious facility	X	
Administration facility	X	
Cultural facility	X	
Public safety facility	X	
Educational facility	X	
Public recreation facility	X	
Cemetery	X	
Service maintenance facility	X	
Transportation facility	X	
Accessory buildings	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet

Minimum front yard setback	25 feet	
Minimum side yard	10 feet	or 25 feet from an intersecting street
Minimum rear yard setback	30 feet	

D. Additional Site Design Standards

1. No article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level; provided, however, that no screening in excess of six (6) feet in height shall be required.
2. Except for cemeteries, there shall be provided an alley, service court, rear yard, or combination thereof, not less than thirty (30) feet wide for all uses specifically enumerated in this Section 2.2.15.
3. Off street parking requirements in Section 3.5, may be met at a remote site.
4. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses and activities on community facilities properties, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MR, or any other residential district.

2.2.16. PDD – Planned Development District

A. Description

The Planned Development District, or PDD, is a district which accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. Zoning of a property PDD shall follow the procedures set forth in Section 5.3.

B. Uses

An application for a PDD shall specify the base zoning district and the use or the combination of uses proposed. Uses which may be permitted in a PDD are those specified in the Master Use Table. Any requested use that is not permitted within the specified base zoning district must be identified as such in the PDD application. In selecting a base zoning district, the uses allowed in the base district must be similar or compatible with those allowed in the PD. Special Use Permits allowed in a base zoning district are allowed in a PD only if specifically identified at the time of PD approval.

C. Dimensions

A PDD shall be a minimum of 5 acres in size. A written request may be made for a PDD on a smaller tract, which requires approval by the city manager. In the case of residential Planned Development Districts for single-family or duplex categories, the proposed lot area shall be no smaller than the lot sizes allowed in the base zoning district. Minor dimensional changes in a limited number of the proposed lots, in order to provide improved design, may be permitted if the application demonstrates the need for the requested change.

D. Approval of PDD Zoning

In approving the development plan and the Ordinance establishing the Planned Development District, after recommendation by the Planning and Zoning Commission, the City Council shall specify such maximum height, floor-area ratio, density and minimum off-street parking and loading standards within the limits of those specified in the districts listed for the specific uses involved as is appropriate for the development. Approval of the development plan and the ordinance establishing the PDD shall also construe the establishment of the standards for yards, signs, building spacing, site coverage, access, screening or landscaping, building area, open space pedestrian-ways, public or private streets and alleys to be observed in a Planned Development District. Such standards shall be specified in the Ordinance establishing the District.

2.2.17. PD-Z –Zero Lot Line Garden Home District

A. Description

The PD-Z - Zero Lot Line Garden Home District, or PDZ District, is designed to allow subdivisions designed for single family dwellings with no setback on one side yard and double the usual side yard on the other side, the same being for each lot in a block. Such single-family dwellings are defined as “zero lot line garden homes.”

B. Uses

USE	BY RIGHT	SUP
Single family dwelling	X	
Public safety facility	X	
Public recreation facility	X	
Accessory buildings	X	
Private garage	X	

C. Dimensions

DIMENSION	STANDARD	ALTERNATE
Maximum building height	2 ½ stories	or 35 feet
Minimum front yard setback	20 feet	
Minimum combined side yard setback for both attached units	15 feet	
Minimum lot size	5,000 sf	

Minimum lot width	40 feet	
Maximum lot coverage by buildings	40%	

D. Additional Site Design Standards

The combined side yard setback for the two side yards may be taken on one side with the other side yard having no setback. The zero setback must be on the same side of the lot for each lot in a given block to allow utility easements through the block from street to street between adjacent houses.

2.2.18. HD – Historic Overlay District

A. Applicability

1. The Historic Overlay District is an overlay district designed to overlay the underlying zoning districts. Within the Historic Overlay District, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided herein.
2. In the event of any conflict between the regulations applicable in the underlying district and the regulations of the Historic Overlay District, the regulations of the Historic Overlay District shall control.
3. The provisions of this Section 2.2.17 shall apply to all properties or structures wholly contained within the Historic Overlay District and to those portions of any property located within the Historic Overlay District.
4. Nothing in this Section 2.2.17 shall be construed as reason for an increased evaluation of the property for purposes of ad valorem taxation because of inclusion within the Historic Overlay District.

B. Prohibited Uses

To protect historic properties and historic districts the following uses are prohibited within the Historic Overlay District:

1. Industrialized housing
2. Industrialized buildings
3. Tiny houses
4. Barndominiums
5. Use of a Conex as a dwelling or as any portion of a dwelling
6. Manufactured housing
7. Mobile home

## 3. GENERAL DEVELOPMENT STANDARDS

### 3.1. Dwelling Units

- 3.1.1. It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes, except within the Central Business District.
- 3.1.2. On any lot separately owned on the date this Ordinance becomes effective, a single-family dwelling may be erected even though such lot has less area than required by these regulations.

### 3.2. Location of Buildings

- 3.2.1. Only one main building on land used for a single-family dwelling, a two-family dwelling, a manufactured home outside an MH Park, or a townhouse with permitted accessory buildings may be located upon a lot or un-platted tract. Every single-family dwelling, two-family dwelling, and townhouse shall face or front upon a street or officially approved place, other than an alley, which means of access shall have a minimum width of twenty (20) feet.
- 3.2.2. Land used for limited retail or industrial purposes, may have more than one (1) main building located upon a single lot or un-platted tract, but only when such buildings conform to all the open space, parking and density requirements applicable to the uses and district, and when all such main buildings face upon a street or officially approved place, other than an alley.
- 3.2.3. Whenever two (2) or more main buildings, or portions thereof, are placed upon a single lot or tract, such developments shall be presented to Planning and Zoning Commission and then to City Council for approval, and shall comply with City platting requirements.
- 3.2.4. Temporary construction buildings shall be removed from the site within ten (10) days of completion of the construction project.

### 3.3. Open Space

- 3.3.1. The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulation set forth in this Ordinance.
- 3.3.2. An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure.
- 3.3.3. Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed three (3) feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed ten (10) feet. Fences, walls, and hedges in residential districts may be erected in any required yard or along the edge of any yard, providing that no fence, wall or hedge located in front of the front building line shall exceed four (4) feet in height, and no other wall or fence shall exceed eight (8) feet in height.
- 3.3.4. Where the dedicated street right-of-way is less than fifty (50) feet wide, the front yard depth shall be determined by measuring fifty (50) feet back from the center line of the street easement.
- 3.3.5. No dwelling shall be erected on a lot which does not abut on at least one street, at least fifty (50) feet in width, for at least thirty-five (35) feet. A street shall form the direct and primary means of ingress and egress. A garage apartment may be built to the rear of a main dwelling if there is compliance with all other provisions of this Ordinance. Accessory buildings which are not a part of the main building may be built in the rear yard but shall not cover more than thirty

(30) percent of the rear yard.

3.3.6. No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of this Ordinance that lots of sufficient size be used by any business or industry to provide adequate parking and unloading and loading space required for operation of the enterprise.

3.3.7. Any fence or enclosure extending closer than twenty-five (25) feet to the front-line street shall not exceed a height of four (4) feet, and any fence, hedge, or enclosure wall on a corner lot, which is situated within fifteen (15) feet of the intersection of the two (2) street lines, shall not exceed a height of three (3) feet. An attached or detached private garage which faces on a street shall not be located closer than twenty-five (25) feet to the public right of way.

3.3.8. Whenever one or more residential, institutional, commercial or industrial buildings are proposed to be located in a cluster or grouping which has a different arrangement, orientation; or other site planning variation from that of other buildings, structures or uses in the area or on adjacent properties, the architectural design, location, orientation, service and parking areas of such buildings shall be planned so as not to adversely affect the use of adjacent or other properties in the area, as determined by the planning and zoning commission.

### 3.4. Trees

#### 3.4.1. City Tree Board

- A. Established. There is hereby created and established a City Tree Board for the City of Smithville which shall consist of the City Council.
- B. Term of Office. The term of the board members shall be three (3) years, except that the term of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.
- C. Compensation. Members of the board shall serve without compensation.
- D. Duties and Responsibilities. It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Smithville.
- E. Operation. The board shall choose its own officers and keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business.

#### 3.4.2. Street Trees to be Planted

##### A. Official Species.

The following list constitutes the official street tree species for the City of Smithville. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board.

##### 1. Small Trees

- a. Crepe Myrtle

- b. Red Bud
- c. Red Oak
- 2. Medium Trees
  - a. Cedar Elm
  - b. Red Oak
  - c. Golden Rain
  - d. Chinese Pistache
- 3. Large Trees
  - a. Bur Oak
  - b. Live Oak
  - c. Pecan

B. Spacing.

Except in special plantings designed by a landscape architect and approved by the City Tree Board, the spacing of street trees will be in accordance with the three (3) species size classes listed in subsection (a) above, and no other trees may be planted closer together than the following:

- 1. Small Trees - 30 feet;
- 2. Medium Trees - 40 feet;
- 3. Large Trees -50 feet;

C. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs and sidewalks will be in accordance with the three species size classes listed in subsection (a) above, and no trees may be planted closer to any curb or sidewalk than the following:

- 1. Small Trees - 2 feet;
- 2. Medium Trees - 3 feet; and
- 3. Large Trees - 4 feet.

D. Distance from Street Corners and Fireplugs.

No street tree shall be planted closer than thirty-five (35) feet of any corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet of any fireplug.

E. Near Utilities.

No street trees other than those species listed as small trees in subsection (a) above may be planted under or within ten (10) lateral feet of any overhead utility wire.

3.4.3. Public Tree Care

- A. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs

within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

- B. The city tree board may remove or cause or order to be removed, with City Council approval, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected by any injurious fungus, insects or other pest.

#### 3.4.4. Tree Topping

- A. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree or park tree.
- B. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- C. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the city tree board.

#### 3.4.5. Pruning, Corner Clearance

- A. Trees overhanging any street or right-of-way within the city shall be pruned so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk.
- B. The city shall have the right to prune any tree or shrub on private property when it interferes with the visibility of any stop sign.

#### 3.4.6. Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

#### 3.4.7. Arborists License and Bond

- A. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license.
- B. The license fee shall be set by the City Council and on file with the city secretary; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.
- C. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

#### 3.4.8. Review by City Council

- A. The City Council shall have the right to review the conduct, acts, and decisions of the city tree board.
- B. Any person may appeal from any ruling or order of the city tree board to the City Council who may hear the matter and make a final decision.

### 3.5. Parking and Loading

#### 3.5.1. Off-Street Automobile and Vehicle Parking and Loading

##### A. General Intent and Application:

It is the intent of these requirements that adequate parking and loading facilities be provided off the street easement for each use of land within the city. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all Districts.

##### B. Required Open Space:

1. Off-street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.
2. The area required for off-street parking shall be in addition to the yard areas herein required; except that the front yard required in a C-1 Neighborhood Shopping District or an I-Industrial Manufacturing and Warehousing District may be used for uncovered parking area; and further provided that the front drive in a Residential District may be used for the uncovered parking area for vehicles associated with a residential use when the area is surfaced to prevent the occurrence of mud and dust with continued use.

##### C. Location:

The off-street parking lot to satisfy parking requirements shall be located within five hundred (500) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

##### D. Joint Parking Facilities:

Whenever two (2) or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements.

##### E. Size of Off-Street Parking Space:

The size of a parking space for one (1) vehicle shall consist of a rectangular area having dimensions of not less than eight (8) feet by twenty (20) feet, plus adequate area for ingress and egress.

F. Amount of Off-Street Parking and Loading Required:

Off-street parking and loading facilities shall be provided in all Districts in accordance with the following schedule:

1. Dwelling, single-family or duplex: Two (2) parking spaces for each separate dwelling unit within the structure.
2. Dwelling, multiple-family: Two (2) parking spaces shall be provided upon the lot for each dwelling unit. No parking shall be permitted in the required front yard. No parking shall be allowed within four (4) feet of any building, nor closer than two (2) feet to the side yard lines. No parking space shall be used for storage of any truck, truck-trailer, or van, except panel and pickup trucks not exceeding one (1) ton capacity. Boat and travel trailers may be parked in a required parking space when the operator or owner of such vehicle resides upon the premises. All parking spaces shall be so arranged as to permit vehicles to be parked and removed without moving one car to facilitate the movement of the other. All parking areas shall be paved according to the city's standard paving specifications.
3. Boarding house, rooming house, bed and breakfast, country inn, and hotel: One (1) parking space shall be provided for each two (2) guests provided overnight accommodations in a boarding house, rooming house, bed and breakfast, country inn, or hotel.
4. Hospitals: One (1) space for each four (4) patient beds, exclusive of bassinets, plus one (1) space for each staff or visiting doctor, plus one (1) space for each three (3) employees including nurses, plus adequate area for the parking emergency vehicles.
5. Medical or dental clinics or offices: Six (6) spaces per doctor plus one (1) space for each two (2) employees.
6. Sanitariums, convalescent or nursing homes: One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor plus one (1) space for each two (2) employees including nurses.
7. Community center, theater, auditorium, stadium, church sanctuary: One (1) parking space for each four (4) seats, based on maximum seating capacity.
8. Convention hall, lodge, club, library, museum, place of amusement, or recreation: One (1) parking space for each fifty (50) square-feet of floor area used for assembly or recreation.
9. Office building: One (1) parking space for each six hundred (600) square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service.
10. Commercial establishments not otherwise classified: One (1) parking space for each three hundred (300) square feet of floor space used for retail trade in the building and including all areas used by the public.
11. Industrial establishments: Adequate area to park all employees and customers vehicles at all times and adequate space for loading, unloading and storing all vehicles used incidental to or as a part of the primary operation of the establishment.

12. The minimum off-street parking requirements for any use not specifically listed shall be the same as those of a similar use, as determined by the city manager.

G. Paved Surface Required:

All parking spaces shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from continued use.

H. Off Street Parking Lots in Residential Districts: Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a Residential District, the following provisions shall apply:

1. All sides of the lot within or abutting the Residential District shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) feet nor more than six (6) feet. Such fence, wall or hedge shall be maintained in good condition.
2. No parking shall be permitted within a front yard setback line wherever the parking lot is located in a Residential District or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required.
3. All yards shall be lands with grass and shrubs and maintained in good condition at all times.
4. Driveways used for ingress and egress shall not exceed twenty-five (25) feet in width exclusive of curb returns.
5. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.
6. Whenever lighting is provided, the intensity of light and arrangement of reflectors shall be such as not to interfere with Residential District uses.
7. No sign of any kind shall be erected within the off-street parking lot except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only non-intermittent white lighting of signs shall be permitted.

3.5.2. Parking and Storage of Recreational and Commercial Vehicles and Trailers. Commercial vehicles, recreational vehicles, and trailers shall not be parked or stored on any lot occupied by a dwelling or any lot in any Residential District, except in accordance with the following provisions:

- A. Not more than one (1) commercial vehicle, per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or other liquefied petroleum products, be permitted.
- B. In areas of the City where alleys exist, trailers and recreational vehicles shall be permitted provided that said trailers or recreational vehicles be parked or stored behind the front building line. In the remaining areas of the City where no alleys exist, even though they may be platted, one trailer or recreational vehicle may be parked or stored behind the property line, with any additional trailers or recreational vehicles to be stored behind the front building line. A recreational vehicle may be occupied for a period not to exceed seven (7) days and any such occupancy shall not be repeated within a period of sixty (60) days.

- C. Manufactured homes and mobile homes shall be parked or stored only in a Manufactured Housing Park which is in conformity with the ordinances of this city.

- 3.5.3. Parking in the Manufactured Housing Park: Within an MH Park, at least two off street parking spaces shall be provided for each home space and one additional parking space for each four home spaces.

### 3.6. Fences and Walls

It shall be unlawful for any person or persons to make, build, construct, or erect any fence to be composed wholly or in part of what is commonly known as barbed wire, on or along the line of any street, alley, avenue, sidewalk, land or lot in the City of Smithville. This article does not prohibit barbed wire along the tops of fences along the lines of alleys, when such fences are over five (5) feet high.

- 3.6.1. Fences in SF-1 and SF-2 shall comply with the following provisions:

- A. No solid fence or enclosure shall exceed a height of six feet measured from the ground level at location of fence, or no such six-foot fence or enclosure shall extend closer to any front street than twenty-five feet.
- B. An ornamental fence may exceed six feet in height but shall have a ratio of solid portion to open portion not in excess of one to four and shall not extend closer to any front street than twenty-five feet.
- C. Any fence or enclosure extending closer than twenty-five feet to the front-line street shall not exceed a height of four feet, and any fence, hedge, or enclosure wall on a corner lot, and situated within fifteen feet of the intersection of the two street lines shall not exceed a height of three feet.

- 3.6.2. Masonry walls

- A. For commercial properties, industrial properties and community facilities, a masonry wall or other equivalent noise attenuating barrier shall be placed to separate all commercial, industrial and community uses and activities, including parking areas, from adjacent residential uses or property zoned SF-1, SF-2, TH, MF, MH or any other residential district.

### 3.7. Signs

- 3.7.1. Billboards

- A. No billboard, as hereinafter defined, shall be erected within the corporate limits of the City of Smithville, Texas.

- 3.7.2. Political Signs

A sign with a political message that is located on private real property must be removed within seven (7) days following the date of the election to which the sign refers. Failure to remove such

sign shall result in a violation of city code is a misdemeanor.

### 3.7.3. Signs on Buildings

Advertising signs painted or pasted directly on a building advertising merchandise, products, or services that are for sale to the public within the building are expressly excepted from the provisions of this Section 3.7.

### 3.7.4. The following types of signs shall be allowed in the SF-1, SF-2, TH and MR districts, provided that any required permit has been granted, and that the sign conforms to any adopted sign standards of the City.

- A. A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire, or sale of a single building or premises, which board or sign shall be removed as soon as the premises are leased, hired or sold.
- B. A church bulletin board or sign, not exceeding fifty (50) square feet in area, located on the same lot with the church building.
- C. Political signs

### 3.7.5. The following types of signs shall be allowed in the MH and MHS districts of the City, provided that any required permit has been granted, and that the sign conforms to any adopted sign standards of the City.

A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire, or sale of a single building or premises, which board or sign shall be removed as soon as the premises are leased, hired or sold.

### 3.7.6. Bed and Breakfast and Boarding Room facility signs

Where bed and breakfasts or boarding houses, or both, are permitted, an unlit, painted sign advertising the bed and breakfast or boarding house may be placed in the front yard. of the lot on which the bed and breakfast or boarding house is located. The area of such sign shall not exceed 24 inches by 24 inches. At the owner's option and expense highway signs may be placed if they conform to state law.

### 3.7.7. Sign Variances

- A. A request for a variance to one or more of the sign-related regulations cited in this Section may be submitted in the format specified by the City, and will be processed and scheduled for consideration for approval by the City Council using the procedures set forth in 5.5 Variances, using the notification and public hearing procedures set forth in 5.2 Zoning Review Procedure.
- B. The City Council may, in specific cases and subject to appropriate conditions, authorize variances and exceptions to the sign regulations when the Council has made a finding from the evidence presented that strict compliance with a requirement will result in a hardship or inequity to the applicant, provided that economic or self-created hardship

alone is not a sufficient basis for the granting of a variance or exception. A three-quarters (3/4) vote of the Council members present and voting is required to approve a sign variance.

- C. The City Council may require a nonconforming sign to be brought into immediate conformity with this Section or to be removed when, from the evidence presented, the Commission finds the sign to be hazardous to the public or to have been abandoned by its owner(s).
- D. The City Council, in considering an application for a sign variance, shall apply the criteria for approval of a variance, as outlined in 5.5.4.
- E. Appeals of the decision of City Council regarding sign variances shall follow the procedure of 5.6 Appeals.

### 3.8. Intersection Visibility

No wall, fence, structure, sign, tree, shrub, hedge, or other object or improvement may be placed or maintained as to cause danger to traffic by obstructing the view of traffic at an intersection. If topography prevents a clear view at an intersection, then the owner of the relevant lot shall modify the topography of such lot to allow a clear view.

### 3.9. Building Height

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific zoning district regulations.

- 3.9.1. In measuring heights, a habitable basement or attic shall be counted as a story. A story in a sloping roof, the area of which story at a height of three (3) feet above the floor does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment, shall be counted as a half story.
- 3.9.2. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.
- 3.9.3. Churches, schools, hospitals, sanitariums, and other public and semi-public buildings may exceed the height limitation of the District if the minimum depth of rear yards and the minimum width of the side yards required in the District are increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

### 3.10. Front Yard Encroachment

- 3.10.1. The front building line of the main dwelling hereafter constructed in Residential Districts, or altered in such manner as to change the position of such front building line, shall be located the distance required from the front lot line as may be required in the Residential District in which such dwellings are located.
- 3.10.2. Porches of dwellings may extend into front yard a maximum distance of ten (10) feet from the main line of the building. Cornices and eaves of the main building may project not more than three (3) feet into the front yard.

### 3.11. Septic Tanks

- 3.11.1. Septic tanks shall not be permitted within the city limits on any lot that is smaller than 1 acre in size.
- 3.11.2. Whenever connection with the sanitary sewer system will require unreasonable expenditure and septic tanks are to be installed for residential lots, the following requirements shall be met:
  - A. Residential lots shall have an area consistent with the current standards set by the Bastrop County Sanitarian.
  - B. If, as the result of necessary percolation tests as required by the city, the manager deems the minimum lot area insufficient, additional lot area sufficient to accommodate the sanitary facilities deemed necessary by the city manager shall be required.

## 4. STANDARDS FOR PARTICULAR USES

### 4.1. Manufactured Homes

4.1.1. This article outlines the requirements for licensing and operating a Manufactured Home Park, provides for an exception to these rules for individual manufactured homes outside of MH Parks before the passage this ordinance. For further regulation of manufactured homes see the zoning categories Planned Development (PD), MH District and Manufactured Home Subdivision (MHS).

### 4.1.2. Licensing.

- A. A Manufactured Home Park zoning on a piece of property does not automatically give permission to operate a MH Park. Operation of MH Park without a license issued by the City under this Section 4.1 is prohibited.
- B. An applicant seeking a license under this Section 4.1 shall provide a detailed scaled drawing of lots, lot sizes, private streets, and utility easements and other improvements as may be desired by the owner of the manufactured home park. If a drawing meeting the requirements of this subsection was submitted as part of the zoning process, no additional drawing is necessary.
- C. Provided the drawing is satisfactory, the license will be issued after the payment is received.
- D. The license will be renewed each year on the anniversary of the date the license was rewarded.
- E. If ownership changes of the manufactured home park during a license period, an additional fee must be paid to transfer the license.
- F. The license will be displayed in the designated office of the manufactured home park owner.

### 4.1.3. Operations and Maintenance.

#### A. Registration Information.

1. Licensee will keep up-to-date and have available for inspection at the manufactured home park a register of manufactured home park occupancy that will have the following information:
  - a. Name and legal address of the manufactured home park residents.
  - b. Manufactured home registration data, including make, length, width, and year of manufacture and identification number.
  - c. Location of each manufactured home by space number or street address if applicable.
2. A new register will be initiated on January 1 of each year and the old register retired but retained on the manufactured home park office premises for a minimum of three years.

#### B. Tax Information.

Licensee will provide a list of all mobile homes in the park as of January 1 of each year. The information will be provided without demand by January 15 of each calendar year. The register of manufactured home park occupancy may be used to supply this information.

C. General Cleanliness.

The owner of the manufactured home park is responsible for the general cleanliness of his property. Grass must be cut by the owner in common areas and caused to be cut by his tenants. Accumulations of rubbish in or around individual manufactured homes or in common areas shall be removed by the owner or cause the same to be done by his tenants.

D. Fire Precautions.

No open fires will be permitted in manufactured home parks except in outdoor cooking containers designed to be used as outdoor cookers. The owner of the manufactured home park shall inspect periodically to ensure that the skirting required is intact and functioning so as to prevent the accumulation of flammable material.

4.1.4. Placement of manufactured homes outside areas zoned as Planned Development Districts, Manufactured Home Parks, Manufactured Home Subdivisions and Mixed Residential.

- A. If on the date of adoption of this Zoning Ordinance there exists a HUD Code Manufactured Home on any lot or in any zoning district of the city, it may be replaced with a HUD Code Manufactured Home provided that (1) the new home can be placed on the lot so as to meet the area and setback requirements for that zoning district; (2) the new home is newer than the manufactured home that it is replacing; and (3) the new home is at least as large as the manufactured home that it is replacing. A time limit of six (6) months shall not lapse from the time the Manufactured Home is moved off a lot and another new HUD Manufactured Home is moved onto the lot. If six (6) months elapse, the Manufactured Home shall not be allowed to be placed on the lot.
- B. Any home brought into the city under these conditions must be permanently tied to piers or runners and must be skirted with fire resistant material. The skirting will have the appropriate number of vents and accesses.
- C. A fee set by resolution and approved by City Council will be charged for each home brought into the area under this provision. Additionally, the owner or their contractor must obtain a building permit, electrical permit and a plumbing permit.

## 4.2. Garage Apartments

- 4.2.1. A garage apartment shall share at least one (1) common wall with or be located above a private garage of a single-family residential dwelling.
- 4.2.2. A garage apartment may only be used as a dwelling unit for one (1) family.
- 4.2.3. Where garage apartments are permitted, the rental, lease, or receipt of compensation for the use of a garage apartment is allowed.
- 4.2.4. Where garage apartments are permitted, the use of a garage apartment as a permanent residence is allowed.
- 4.2.5. Installation of a separate gas or electrical meter in a garage apartment is not prohibited.
- 4.2.6. One additional off-street parking space shall be required when a property has a garage apartment.
- 4.2.7. All property development regulations applicable to the principal residence shall be applicable to the garage apartment, including, but not limited to, setbacks, yards and height limitations.

### 4.3. Guest House/Studio

- 4.3.1. Where permitted, a guest house shall be located within a detached accessory building of a residential lot.
- 4.3.2. Rental, lease, or receipt of any compensation for the use of a guest house is prohibited.
- 4.3.3. Use of the guest house as a permanent residence is prohibited.
- 4.3.4. Installation of a separate gas or electrical meter for the guest house is prohibited.
- 4.3.5. A guest house may include one bathroom and a kitchen.
- 4.3.6. One additional off-street parking space shall be required when a property has a guest house.
- 4.3.7. All property development regulations applicable to the principal residence shall be applicable to the guest house, including, but not limited to, setbacks, yards and height limitations.

### 4.4. Lodging Facilities

- 4.4.1. Health and Safety Requirements for Boarding House facilities, Bed and Breakfast facilities, Country Inns, Hotels and Motels: All boarding houses, bed and breakfasts, country inns, hotels and motels:
  - A. Must have a working smoke detector in each sleeping room.
  - B. Must have a fire evacuation plan posted within the sleeping room.
  - C. If sleeping rooms are located above a first floor, must have an escape route provided by a fire escape or window rope ladder or similar device from the second or higher stories.
  - D. Must provide a fire extinguisher on each floor of the dwelling that has sleeping rooms.
  - E. Must have an approved parking plan to show how parking will not block the public right-of-way or interfere with parking in the neighborhood. Off street parking is preferred.
  - F. The structure must conform to city building code for single family residential structures for electrical and fire requirements.
  - G. Provisions must be made for safe food preparation and handling.
- 4.4.2. Other conditions
  - A. Bed and breakfasts and boarding houses shall not be used as rental halls for private or public functions.
  - B. Public or private events at the facility that interfere with the quiet enjoyment of their property by the neighbors are prohibited.

### 4.5. Recreational Vehicle (RV) Parks

- 4.5.1. License
  - A. Required. It shall be unlawful for any person to operate any RV Park within the City limits unless such person holds a valid license issued annually by the City of Smithville in the name of such person for the specific park. The applicant shall make all applications for the licenses on forms furnished by the City of Smithville, which shall issue a license upon compliance with the provisions of this article.
  - B. Application Fee. The license fee shall be set by resolution of the City Council and is on file with the office of the City secretary.
  - C. Hearing on Denial. Any person whose application for a license under this article has been

denied may request, and shall be granted, a hearing on this matter before the Planning and Zoning Commission with recommendation forwarded to City Council for approval or disapproval.

- D. Application for Renewal. Application for renewal of an RV Park license shall be made in writing by the licensee on forms furnished by the City of Smithville on or before December 31st of each year. Such application shall contain any changes in the information occurring after the original license was issued or the latest renewal granted. The renewal license fee shall be set by resolution of the City Council and is on file with the office of the City secretary.
- E. Approval of Transfer. Every person holding a license shall give notice in writing to the City of Smithville within ten (10) days after having sold, transferred, given away, or otherwise disposed of interest in or control of any RV Park. Application for transfer of a license shall be made within ten (10) calendar days after notification of change covered in this subsection. Within thirty (30) calendar days thereafter, the City of Smithville shall act on the application for license transfer and it shall be approved if the RV Park is in compliance with the provisions of this section.
- F. Transfer Fee. The license transfer fee shall be set by resolution of the City Council and is on file with the office of the City secretary.
- G. Suspension.
  - 1. Whenever, upon inspection of any RV Park, the City finds that conditions or practices exist which are in violation of any provisions of this article applicable to such park, the City shall give notice in writing to the owner and/or manager of the park, and if such conditions or practices have not been corrected in the time frame set forth in the notice, the City will suspend the license and give notice of such suspension. Upon suspension of the license, the licensee shall cease operation of such park.
  - 2. The suspension of the license may be appealed to the City Council as set forth in subsection (b) of section 3.2.
- H. Inspections
  - 1. Authorized. The building official and code official are hereby authorized to make such inspections as are necessary to determine compliance with this article.
  - 2. Entry on Premises. The building official and code official shall have the power to enter at reasonable times upon any private or public property within the purpose of inspecting and investigating conditions relating to the enforcement of this article.
- I. Notices, Hearings and Orders
  - 1. Notice of Violation. Whenever it is determined that there are grounds to believe that there has been a violation of any provision of this article, the City of Smithville shall give notice of such alleged violation to the licensee or agent, as hereinafter provided. Such notice shall:
    - a. Be in writing.
    - b. Include a statement of the reasons for its issuance.
    - c. Allow ten (10) days for compliance.
    - d. Be served upon the licensee or his agent; provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been served in person or sent by certified mail to his/her last known address.
    - e. Contain an outline of remedial action that, if taken, will affect compliance with the provisions of this article.

- f. After all procedures outlined above are exhausted citations may be issued. If a municipality mails a notice to a property owner in accordance with Section 3.2 (a) and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice is considered as delivered.
2. (b) Appeal from Notice. Any person affected by any notice that has been issued in connection with the enforcement of any provision of this article applicable to such park may request a hearing before the City Council provided that such person shall file within ten (10) days after the day the notice was served, in the City secretary’s office, with a copy to the office of the code official, a written petition requesting such hearing and setting forth a brief statement of the grounds thereof. The filing request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under subsection (d) of this section.
3. (c) Issuance of Order. After such hearing, the City Council shall issue an order in writing sustaining, modifying, or withdrawing the notice of violation, which order shall be served by certified mail upon the petitioner. Any failure to comply with an order sustaining or modifying the finding of a violation shall constitute grounds for immediate revocation of the license of the park affected by the order.
4. (d) Order without Notice. Whenever the City finds that an emergency exists which requires immediate action to protect the public health or safety, the designated official may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring the action to be taken as deemed necessary to meet the emergency. Notwithstanding any other provisions of this section, such order shall be effective immediately, but upon written petition to the City shall be afforded a hearing as soon as possible. The provisions of subsection (c) of this section shall be applicable to such hearing and the order issued thereafter.
- J. Violations Declared Nuisance; Abatement; Penalty
  1. Any noncompliance with this article is hereby deemed a nuisance.
  2. The City may abate and remove the nuisance and punish the person(s) responsible for causing or allowing the nuisance condition to exist.
  3. Any person(s) violating this article shall be subject to a fine as set forth in the City Code of Ordinance Chapter One, General Provisions, Article 1.100 Code of Ordinances, Section 1.109 – General Penalty for Violations of Code and Continuing Violations.
  4. The code official shall be the authority of the jurisdiction responsible for the issuance of citations and any action deemed necessary for the enforcement of this ordinance.

#### 4.5.2. Site Development Plan

- A. Site Development Plan Submittal
  1. A site development plan must be prepared and submitted to City staff and the Planning and Zoning Commission for approval. The site development plan must include the requirements for site plans contained herein.
  2. The Planning and Zoning Commission shall have the power and it shall be its duty to recommend for adoption the RV Park site development plan to the City Council as a whole or in parts, for the future development and redevelopment of the municipality in accordance with Chapter 283, Acts of the Regular Session of the Legislature, 1927,

(Arts. 1011a to 1011j, V. T. C. S.). The commission shall perform such other duties as may be prescribed by ordinance or state law. (1987 Code of Ordinances, Chapter 11, Section 2).

3. A nonrefundable fee will be required with submittal of the site development plan. The fee shall be set by resolution of the City Council and is on file with the office of the City secretary. The fee covers the administrative cost for design review, notification of residents within 200 feet of the proposed RV Park, and for providing advertising / legal notice to the public. The fee will also cover any zone change requests required as part of site development. Note: The Planning and Zoning Commission serves in an advisory capacity to the City Council. Approval or denial of the RV Park site development plan rests solely with the City Council.
- B. Location and Fencing
1. RV Parks may only be located in an area regulated by section 4.2 of this article.
  2. In addition, RV Parks shall be located at least twenty (20) feet from any single-family residential (SF1), two-family residential (SF2), or multifamily (MF) zoning district. This requirement does not apply to SF1, SF2, or MF areas within the 100-year floodplain. Recreational vehicles cannot be placed closer than twenty (20) feet to the property line separating the RV Park from adjoining property, measured from the nearest point of the recreational vehicle.
  3. An opaque fence at least eight (8) feet in height must be placed on the property line to buffer the RV Park from view. The fence shall be installed on both sides and at the rear of the property. The fence must be made of treated lumber, ornamental metal, brick, stone, and/or combination thereof. Fences shall be maintained in good condition or deemed a public nuisance.
- C. Size and Density
1. Each RV Park must have a minimum size of three (3) acres, with a maximum of seven (7) acres.
  2. The maximum site density for RV Parks shall be fifteen (15) sites per acre.
  3. Only one (1) recreational vehicle is permitted per recreational vehicle site.
- D. Size of Individual Sites; Pad Requirements; Landscaping
1. Each recreational vehicle site within the RV Park shall have a minimum area of one thousand nine hundred fifty (1,950) square feet and shall be at least thirty (30) feet wide and sixty-five (65) feet in depth. The interior pad sites shall be designed as pull-through for ease of entering and leaving the site. The exterior pad sites can be designed as back-in spaces. A roadway is therefore required to the front and rear for the pull-through spaces. In addition, the space shall be clearly marked identifying the space number.
  2. The left 1/3 (10 x 65) of the site or driver's side must be planted with grass and other landscaping; the middle (10 x 65) must be paved with cement or asphalt and the remaining 1/3 or passenger side can be paved with either cement, asphalt, crushed rock or similar material. The middle portion is to be used for the parking of the recreational vehicle with the paved area on the right used as a parking or patio area.
- E. Street Access; Street Lighting
1. Each recreational vehicle site within the RV Park shall have access to an internal private roadway, which shall have access to a public street. The entrance of the internal roadway shall have a pavement width of at least thirty (30) feet with an

adequate curb radius. The major thoroughfare shall have a pavement width (concrete or asphalt) of twenty-four (24) feet in accordance with City standards. The roadway may be fifteen (15) feet if the RV Park is designed for one-way roads. Each emergency access lane shall have a clear unobstructed width of twenty-four (24) feet; fifteen (15) feet if one-way and shall have a turning area and radii with a minimum of sixty (60) feet to permit free movement of emergency vehicles. Dead-end streets are not allowed.

2. Metal signs shall be placed along the emergency access lane, by the owner or agent of the RV Park stating that parking is prohibited. The sign type, size, height and location shall be approved by the City.
3. Adequate street lighting for the RV Park shall be approved by the City.

F. Required Facilities

1. Each RV Park must have an office for the manager of the RV Park, and a bathroom and shower facilities, as well as laundry facilities. All facilities used by residents must be well lit inside and out during the night hours. All facilities must meet applicable codes adopted by the City to include compliance with the Americans with Disability Act (ADA).
2. All RV Parks shall have at least one (1) recreation area, located as to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than eight (8) percent of the gross park area shall be devoted to recreational facilities. Recreation areas include space for community buildings and community use facilities such as restroom and shower facilities, adult recreation (basketball court or tennis court) and playgrounds for children, and swimming pools, but not including vehicle parking, maintenance and utility areas.

G. Soil and Ground Cover

Exposed ground surfaces in all parts of the RV Parks shall be paved, covered with stone, rock, or other similar solid material, or protected with vegetative cover that is capable of preventing soil erosion and eliminating dust. All pavement shall be kept in good repair.

4.5.3. Drainage

The ground surface in all parts of the RV Park shall be graded and designed to drain all storm water, surface water in a safe, efficient manner. Drainage analysis shall be performed by a licensed professional engineer and easements for the conveyance of surface water off-site shall be obtained, if necessary.

4.5.4. Water Supply

- A. Each site within an RV Park shall be provided with a connection to the City water supply if available. If City water supply is not available, then a permit from the Texas Commission on Environmental Quality (TCEQ) shall be obtained to install a well.
- B. The City must approve all proposed water facility plans prior to construction.
- C. The water distribution system shall be installed as follows:
  1. The water supply system, fixtures and other equipment must be installed in accordance with applicable codes adopted by the City.
  2. A master water meter shall be installed to serve the RV Park. Sub-metering or re-metering of RV sites is not permitted.

3. A reduced pressure principal backflow preventer will be required to be placed at the property line on the discharge side of the master meter. In addition, one (1) must be placed at each of the connections for each RV site and located on the left side of the site.
4. Water riser service branch lines shall extend at least four (4) inches above ground elevation. The branch line shall be at least  $\frac{3}{4}$  inch.
5. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes. Surface drainage shall be diverted from the location of utility connections at each site.
6. A shut off valve below the frost line shall be provided near each water riser pipe.
7. The owner/operator shall have complete maintenance responsibility for the water system within the RV Park.
8. The City has no maintenance responsibility for service lines within the RV Park. The responsibility of the City stops at the property line.

#### 4.5.5. Wastewater Facilities

- A. Each site within the RV Park shall be provided with a connection for wastewater if available.
- B. If City wastewater is not available, then a permit from the Texas Commission on Environmental Quality (TCEQ) shall be obtained prior to placement of an on-site sewage facility.
- C. All proposed wastewater service lines shall be connected to the City wastewater system if available.
- D. On-site sewage facilities are permitted if City utilities are not available.
- E. The City must approve all proposed wastewater facility plans prior to construction.
- F. The wastewater distribution system shall be installed as follows:
  1. The wastewater system and materials must be installed in accordance with applicable codes adopted by the City.
  2. Each site shall be provided with a four-inch diameter wastewater riser and shall extend above grade four (4) to six (6) inches. The wastewater riser pipe shall be so located on each stand so that the wastewater connection to the RV drain outlet will approximate a vertical position. Each inlet shall be provided with a gastight seal when connected to a recreational vehicle or have a gastight seal plug when not in service. The plug shall be that of a spring-loaded device.
  3. The wastewater connection to each site shall consist of a single four-inch service line without any branch lines, fittings, or connections. All joints shall be water tight.
  4. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four (4) to six (6) inches above the ground elevation.
  5. Each collection wastewater line shall provide a vent extending a minimum of ten (10) feet in height.
  6. The owner/operator shall have complete maintenance responsibility for the wastewater system within the RV Park. The responsibility of the City stops at the property line.
  7. Each RV Park shall be required to install at the property line, where connection to the City sewer is made, a sample well site as defined herein. The sample well site shall be installed according to City code.
  8. All chemicals entering the City sewer shall be biodegradable.

#### 4.5.6. Electrical Service

- A. Each site within the RV Park shall be provided with electrical service.
- B. All electrical service shall be underground and installed in accordance with the National Electrical Code.
- C. The electrical service shall be installed as follows:
  - 1. A master electric meter shall be installed to serve the RV Park. Sub-metering or re-metering of RV sites is not permitted.
  - 2. The City has no maintenance responsibility for service lines within the RV Park. The responsibility of the City stops at the property line.
  - 3. The location of all underground lines shall be clearly marked by surface signs at approved intervals.
  - 4. Power supply to each site shall be a minimum of one 20-amp and one 50-amp power supply.
  - 5. Outlets (receptacles or pressure connectors) shall be housed in an Underwriters' Laboratories, Inc., approved weather proof outlet box.
  - 6. A water tight seal shall be provided for underground conduit in floodplain installations and a riser extending a minimum of two (2) feet above the floodplain elevation shall be provided.

#### 4.5.7. Sanitary Facilities

- A. Each RV Park shall provide the following sanitary facilities as listed below:
  - 1. One (1) toilet or stool for the female sex for every twenty (20) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
  - 2. One (1) toilet or stool and one (1) urinal stall for the male sex for every twenty (20) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
  - 3. One (1) washbasin shall be provided within the toilet room for every two (2) toilets or fraction thereof (a minimum of one (1) is required).
  - 4. One (1) shower shall be provided for each sex for each twenty (20) sites or fraction thereof (minimum of one (1) is required for each sex) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
  - 5. All toilets and shower facilities shall be placed in properly constructed buildings and located not more than two hundred (200) feet from any recreational vehicle site.
  - 6. Buildings shall be well lit at all times, day or night, well ventilated with screened openings, and constructed of moisture proof material to permit rapid and satisfactory cleaning, scouring and washing.
  - 7. The floors shall be of concrete or other impervious material, elevated not less than four (4) inches above grade, and each room shall be provided with floor drains.
  - 8. A slop sink or basin with water supply shall be in each restroom (male and female) and at least one (1) in the laundry facility, and shall be constructed in accordance with design, size and materials approved by the building official.
- B. Toilet and bathing facilities shall be in separate rooms or partitioned apart in any manner as to provide privacy and promote cleanliness. Each toilet provided in a community toilet house shall be partitioned apart from any other toilet in the same room. The floor surface

around the commode shall not drain into the shower floor.

- C. Toilet floors and walls shall be of impervious material, painted white or a light color, and kept clean at all times. Shower stalls shall be of tile, plaster, cement or some other impervious material and shall be kept clean at all times. If a shower stall is of some impervious material other than tile, cement or plaster, it shall be white or some light color and kept clean at all times. The floor of any bathroom, other than the shower stall, shall be of some impervious material, and the walls of the bathroom, other than the shower stall, shall be papered with canvas and wallpaper, or an equivalent washable surface kept clean at all times.

#### 4.5.8. Storage, Collection and Disposal of Refuse and Garbage

Each RV Park shall be provided with safe and adequate facilities for the collection and removal of waste and garbage. Storage, collection, and handling shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, or fire hazards. Every site shall be located within two hundred (200) feet of a refuse facility measured along the RV Park internal roadway. Trash dumpsters shall be screened on three (3) sides.

#### 4.5.9. Telephone

A minimum of one (1) emergency telephone shall be provided in an easily accessible location twenty-four (24) hours a day, seven (7) days a week for emergency use.

#### 4.5.10. Accessory Structures

The individual sites within the RV Park are not allowed to have accessory structures as defined herein.

#### 4.5.11. Registration of Guests

Each person renting a site within a RV Park shall provide the following information to the owner, manager, operator or person in charge of the RV Park:

- A. Name;
- B. Full address of permanent residence;
- C. Automobile and recreational vehicle license plate number and the state in which each is registered;
- D. Driver's license number of the owner;
- E. The number or letter of the site being rented;
- F. Date of arrival and departure.

#### 4.5.12. Control of Insects, Rodents and Other Pests

- A. Grounds, buildings and structures in the RV Park shall be maintained free of the accumulation of high grass and weeds and debris so as to prevent rodent and snake harborage or the breeding of flies, mosquitoes or other pests.
- B. The RV Park owner or manager shall be responsible for maintaining the entire area of the

park free of dry brush, leaves, limbs and weeds.

#### 4.5.13. Fire Safety Standards; Fire Hydrants

- A. Open fires shall be allowed only in a manner and within a container approved by the fire chief.
- B. A fire hydrant(s) must be placed such that each recreational vehicle site is at least six hundred (600) feet from one.

#### 4.5.14. Change of Ownership of Grandfathered RV Park

Upon change of controlling interest of a grandfathered RV Park the new owner shall immediately bring the existing RV Park to meet the requirements of this ordinance.

#### 4.5.15. Existing Manufactured Mobile Home Parks

Existing manufactured mobile home parks that have spaces for recreational vehicles prior to the adoption of this ordinance shall be permitted to occupy the space with a recreational vehicle. However, in no instance shall a new manufactured mobile home park (located within the City limits of Smithville) be allowed recreational vehicles or spaces for recreational vehicles. Similarly, no manufactured mobile home shall be permitted in a recreational vehicle park.

### 4.6. Animal Services

#### 4.6.1. Veterinary clinic (indoors)

- A. The entire business must be conducted wholly within a completely enclosed, sound-proofed and air-conditioned building.
- B. Noise and odors created by activities within the building shall not be perceptible beyond the property line.

#### 4.6.2. Outdoor dog kennels

- A. Outdoor dog kennels shall be located not less than 300 feet from a residential structure that is located on any property in separate ownership, as measured from the nearest portion of an existing habitation to the nearest portion of the kennel.

#### 4.6.3. Commercial stables

- A. Commercial stables shall be located not less than 500 feet from any residential district, as measured from the nearest portion of an existing habitation to the nearest portion of the stable.

## 5. PROCEDURES

### 5.1. Decision Agents

#### 5.1.1. Planning and Zoning Commission

##### A. Creation

1. There is hereby created and established for the City of Smithville, Texas, a planning and zoning commission which shall be composed of five (5) members.
2. The members shall be resident citizens, taxpayers, and qualified voters of the city, all of who shall be appointed by the city manager subject to confirmation by the governing body.
3. All vacancies shall be filled in the same manner as provided for the original appointments.
4. Members of the commission may be removed by the city manager, with the consent of the governing body,

##### B. Appointment

1. The members of the commission shall serve without compensation.
2. The members of the planning and zoning commission first appointed shall continue their term of office as specified as being concurrent with the term of office of the elected mayor, and thereafter for a term of two (2) years.
3. Members shall attend all meetings. More than three (3) absences from Planning and Zoning Commission meetings in one calendar year shall be cause for removal from the Commission.

##### C. Offices and Powers

1. The planning and zoning commission shall elect a chairman and vice-chairman from its membership every two years at reappointment time and shall have power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the commission and to pay for their services and such other necessary expenses, provided that the cost of such services and expenses shall not exceed the amount appropriated by the governing body for the use of the commission.
2. It shall also have the power to make rules, regulations, and bylaws for its own government, which shall conform as nearly as possible with those governing the governing body and same shall be subject to approval by such City Council. Such bylaws shall include, among other items, provisions for:
  - a. regular and special meetings open to the public;
  - b. records of its proceedings to be open for inspection by the public;
  - c. reporting to the governing body and the public from time to time and annually; and
  - d. for the holding of public hearings on its recommendations.

3. The planning and zoning commission shall have the power and it shall be its duty to make and recommend for adoption a comprehensive plan, as a whole or in parts, for the future development and redevelopment of the municipality and its extraterritorial jurisdiction, to make recommendations to the City Council for approval or disapproval of plats, and shall have power and it shall be its duty to prepare a comprehensive plan and ordinance for zoning the city in accordance with Chapter 213, Texas Local Government Code. The commission shall perform such other duties as may be prescribed by ordinance or state law.

### 5.1.2. Zoning Board of Adjustment

#### A. Governing Body Acting as Board of Adjustment.

Pursuant to Texas Local Government Code § 211.008(g), the members of the City Council of the City of Smithville have the authority to act as the Board of Adjustment, or the Board, under Chapter 211, Texas Local Government Code.

#### B. Terms.

Each member of the Board shall serve a two-year term, to run concurrently with his or her term of office as members of the governing body of the city.

#### C. Organization.

1. The Mayor shall serve as Chairperson and the Mayor Pro Tem shall serve as Vice Chairperson. The Board Secretary shall be the City Secretary.
2. Notice of each application considered by the Board shall be made by the applicant in the manner approved by the Board.

#### D. Meetings.

1. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine.
2. All meetings of the Board shall be open to the public and shall be subject to the Texas Open Meeting Act.

#### E. Rules and regulations.

1. All orders and other enactments adopted by the Board shall be in accordance with this appendix and its rules and regulations.
2. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, of if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
3. Each case shall be heard by at least five Board members. When five members hear a case, the concurring vote of four members of the Board shall be necessary to: (1) reverse any order, requirement, decision or determination of an administrative official, or (2) to decide in favor of the applicant on any matter upon which the Board

is authorized to act. When six members hear a case, the concurring vote of five members of the Board shall be necessary to: (1) reverse any order, requirement, decision or determination of an administrative official, or (2) to decide in favor of the applicant on any matter upon which the Board is authorized to act.

4. A motion may be made by any member other than the presiding officer.

F. Powers of the Board of Adjustment.

1. The Board of Adjustment has the authority to:
  - a. hear and decide appeals when error is alleged in any order, requirement, decision or determination made by an administrative official in enforcement of the act or zoning ordinance;
  - b. hear and decide special exceptions as allowed or required by the zoning ordinances, in appropriate cases and subject to appropriate conditions and safeguards, in harmony with the general purpose and intent, and in accordance with general or specific rules contained in the various city ordinances; and
2. authorize in specific cases variances from the terms of this Ordinance in accordance with Section 5.5. Each case before the board of adjustment must be heard by at least 75 percent of the members.
3. Before the tenth day before the hearing date, written notice of each public hearing before the Board of Adjustments on a request for variance shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the request for variance is made. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. Responses to such notices shall be duly noted and entered into the minutes of the Board of Adjustment hearing.
4. In exercising its authority to decide an appeal, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken, and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.
5. The concurring vote of at least 75 percent of the members of the Board is necessary to:
  - a. reverse an order, requirement, decision, or determination of an administrative official;
  - b. decide in favor of an applicant on a matter on which the Board is required to pass under this Ordinance;
  - c. authorize a variance.

G. Procedure for appeals to the Board.

1. Appeal to Board.
  - a. Except as set forth in subsection (e), below, the following persons may appeal a decision made by an administrative official to the Board of Adjustment:
    1. a person aggrieved by the decision; or
    2. any officer, department, board, or bureau of the City.
  - b. The appellant must file with the City Secretary, specify the grounds for the

appeal, and pay a filing fee as may be prescribed by the City Council. Such shall be filed with the City Secretary within 30 days after the action complained of was committed. On receiving the notice, the City Secretary and administrative or building official shall transmit to the Board all the papers constituting the record of the action that is appealed.

- c. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by a court of record.
- d. The Board shall set a reasonable time for the appeal; hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The Board shall decide the appeal within a 60-day period from the filing of the appeal.
- e. A member of the City Council may not appeal a decision by an administrative official to the Board.

## 2. Final Decision.

The Board's final decision shall be immediately filed with the City Secretary. The time and date that the Board's final decision is filed with the Board's office shall be stamped on the face of the decision.

## H. Limitations.

1. No appeal under this article may be filed by the same applicant within 365 days of the date upon which the Board denied such appeal, request or application, unless other property in the immediate vicinity has, within the 365-day period, been changed or acted on by the Board so as to alter the facts and conditions upon which the previous Board action was based. Such change of circumstances shall permit the rehearing of an appeal, request or application by the Board prior to the expiration of the 365-day period, but such conditions shall in no way have any force in law to compel the Board to reconsider the appeal, request or application. Such subsequent rehearing shall be considered entirely on its merits and the peculiar and specific conditions related to the property with reference to which such proceeding is brought.
2. Any appeal, request or application approved by the Board, either under the provision of this appendix or under the authority granted to the Board under the statutes of the State of Texas, shall authorize the issuance of a Building permit or a certificate of occupancy, as the case may be, for a period of ninety days from the date of the favorable action on the party of the Board unless the Board in its minutes shall, at the same time, approve a longer period. If an application for such building permit or certificate of occupancy is not filed within the 90-day period or such extended period as the Board may specifically approve, then the approval of the appeal or variance shall be deemed waived and all rights there under terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, request or application to the Board in accordance with the rules and regulations herein contained.

I. Appeals from the Board of Adjustment.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, or board of the city may present any such matter to a court of competent jurisdiction for review after the final action of the Board thereon and in the manner and upon the terms provided by the laws of the state.

### 5.1.3. Airport Zoning Board

- A. Subject to like provisions being made by the Commissioners Court of Bastrop County, Texas, by proper order, duly promulgated and entered on its minutes, and as authorized by the provisions of Chapter 391 of the Acts of the Regular Session of the 50th Legislature, 1947, there is hereby created a joint airport zoning board, to be known as the Smithville-Bastrop County Joint Airport Zoning Board, which shall have the powers and exercise the duties set forth in Section 2 and 3 of Chapter 391 of the Acts of the Regular Session of the 50th Legislature, 1947.
- B. The Smithville-Bastrop County Joint Airport Board shall be composed of five (5) members, two (2) to be appointed by the City Council of the City of Smithville, Texas, and two (2) members appointed by the Commissioners Court of Bastrop County, Texas. The fifth member shall be elected by a majority of the members so appointed and said fifth member shall serve as chairman of the said Smithville-Bastrop County Joint Airport Zoning Board.

## 5.2. Zoning Review Procedure, Including Notice and Public Hearings

The City Council may, from time to time, amend, supplement, or change by ordinance, the text of the zoning ordinance, the zoning district boundaries of the zoning district map or the zoning district classification of property whenever the public necessity, convenience, general welfare or good zoning practice requires.

### 5.2.1. INITIATION

- A. Zoning map or text amendments, excluding Planned Development Districts, may be initiated by:
  - 1. City Council by resolution
  - 2. Planning and Zoning Commission by recommendation to the City Council
  - 3. The owner or owner's agent by application
  - 4. Any other person, agency or entity may initiate a revision to the provisions of this Chapter by application.
- B. Planned Development Districts may be initiated by:
  - 1. The owner(s) of at least 51 percent of the land, by land area, in the proposed district by application
  - 2. At least 51 percent of the owners of individual properties in the proposed district by application
  - 3. City Council by resolution
  - 4. Planning and Zoning Commission by recommendation to the City Council

- C. Special Use Permits may be petitioned by the property owner or the owner's agent by application.
- D. Variances may be petitioned by the property owner or the owner's agent by application.
- E. All petitions, applications, recommendations, or proposals for zoning shall be filed with the City Secretary.

#### 5.2.2. APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- A. The following shall be universal requirements for all applications under this Section 5.2:
  - 1. Letter of intent written by the owner or designated agent, indicating:
    - a. a description of the property
    - b. the development intent and proposed use of the property;
    - c. the name, address and phone number for the owner or designated agent; and
    - d. the address of the subject property, if applicable.
  - 2. Certificate of agency or power of attorney if someone other than the owner submits the application.
  - 3. Names of all property owners, as shown on current tax records, within 200 feet of the subject property.
  - 4. Any and all covenants binding the property, including a map and legal description of the area(s) affected.
  - 5. Legal description and exhibit of the property showing the property boundary.
  - 6. Identification of all pending zoning applications for the property, including legislative and quasi-judicial applications, if any.
  - 7. All accompanying applications, if filing concurrently.
- B. No application shall be reported as complete, and no notification of filing shall be given, unless all fees associated with the application have been received by the city manager.
- C. The fees associated with zoning applications are maintained by the city manager.
- D. No application shall be processed until the city manager determines that the application is complete, and the required fees have been paid.
- E. The application shall be considered officially filed only after it is accepted by the city manager and found to be in compliance with the Submittal Requirements.

#### 5.2.3. NOTICE FOR PUBLIC HEARINGS

- A. Notice required for a public hearing before the Planning and Zoning Commission or the City Council for a zoning change, amendment, special use permit, or variance shall be given by the City Secretary by:
  - 1. Publishing the notice at least fifteen (15) days before the date of the hearing; and
  - 2. Mailing notice at least ten (10) days before the date of the hearing to the:
    - a. applicant;
    - b. owner of real property located within 200 feet of the subject property;
    - c. parties to an appeal; and
    - d. utility account addresses located within 200 feet of the site of the proposed development, as shown in the City utility records on the date of the filing of the application.

#### 5.2.4. REVIEW PROCEDURE

- A. Planning and Zoning Commission Hearing and Recommendation
  1. The Planning and Zoning Commission shall hold a public hearing on an application under this Section 5.2 not later than thirty (30) days after the date the application is filed.
  2. The Planning and Zoning Commission shall make a recommendation to City Council on the application not later than the 14th day after the Commission closes the public hearing on the application.
  3. The Planning and Zoning Commissions may recommend that the Council:
    - a. Approves the application as proposed
    - b. Approves a more restrictive zoning classification than what is requested in the application
    - c. Approves the proposed classification subject to conditions
    - d. Denies the application
  4. If the Planning and Zoning Commission does not adopt a recommendation on the application, the city manager shall forward the application to City Council without a recommendation from the Commission.
  
- B. City Council Hearing and Recommendation
  1. City Council shall hold a public hearing on a zoning application not later than the thirtieth (30th) day after the date of the recommendation of the Planning and Zoning Commission.
  2. After a public hearing on the application for zoning classification, Council may:
    - a. Approve the zoning as requested;
    - b. Approve a more restrictive zoning classification;
    - c. Approve the requested classification subject to conditions; or
    - d. Deny the proposed zoning classification.
  3. If a protest against an application is signed by the owners of twenty (20) per cent or more of either the area of lots included in such proposed action or of those immediately adjacent to or within two hundred (200) feet of such lots, such action shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the City Council.
  4. If the City Council has refused to grant a proposed amendment, supplement, change or modification in the boundaries of any zoning district, such amendment, supplement, change or modification in the boundaries of such zoning district shall not be submitted again prior to the expiration of twelve (12) months from the date of the order or decision of the City Council against such zone change.

#### 5.2.5. RECORDING PROCEDURE

- A. For initial property zoning, rezoning, planned development district designations, overlay districts and any other amendments:
  1. The ordinance amending the zoning of real property shall be filed in accordance with the City's recording and filing procedures for Ordinances.
  2. When the zoning classification involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat or map of such land showing the new zoning classifications and indicating their boundaries.
  3. The attested ordinance shall serve as a record of the current zoning status until such time as

the zoning map can be changed.

B. For Special Use Permits and Variances:

A certified copy of all resolutions authorizing a Special Use Permit or a Variance shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the City Secretary.

### 5.3. Planned Development Districts

#### 5.3.1. Creation:

The City Council, after public hearing and proper notice to all affected property owners and after recommendation by the planning and zoning commission, may authorize the creation of a Planned Development District on sites of five (5) acres or more to accommodate various types of development and conditions of development for any use or combination of uses permitted by this Ordinance. The uses to be permitted in any specific Planned Development District shall be enumerated in the Ordinance establishing such district and shown on the approved plan for development which becomes part of said Ordinance.

#### 5.3.2. Development Schedule:

An application for a Planned Development District shall, if the applicant desires, or the planning and zoning commission or City Council requires, be accompanied by a development schedule indicating the appropriate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule if adopted and approved by the City Council shall become part of the development plan and shall be adhered to by the owner, developer and his successors in interest.

#### 5.3.3. Annual Development Report:

Annually, where a development schedule has been required, the building inspector shall report to the City Council the actual development accomplished in the various Planned Development Districts as compared with the development schedule.

#### 5.3.4. Failure to Meet Development Schedule:

The planning and zoning commission may, if in its opinion the owner or owners of property are failing or have failed to meet the approved schedule, initiate proceedings to amend the Zoning District Map or the planned development by removing all or part of the Planned Development District from the Zoning District Map and placing the area involved in another appropriate zoning district. Upon the recommendation of the planning and zoning commission and for good cause shown by the owner and developer, the City Council may also extend the development schedule or adopt such new development schedule as may be indicated by the facts and conditions of the case.

#### 5.3.5. Development Plan Required:

An application for a Planned Development District shall include and be accompanied by a development plan which shall become a part of the amending ordinance and shall be referenced on the Zoning District Map. Changes in the development plan shall be considered the same as changes in the Zoning District Map and shall be processed as required, except that changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off street parking ratio, or reduce the yards provided at the boundary of the site as indicated on the approved development plan may be authorized by the planning and zoning commission. Any applicant may appeal the decision of the planning and zoning commission to the City Council for review and decision as to whether an amendment to the planned development district ordinance shall be required. All uses shown on the development plan shall be mutually exclusive.

#### 5.3.6. The Development Plan shall include:

- A. A scale drawing showing any proposed public or private streets and alleys; building sites or building lots; any areas proposed for dedication or reserved as parks, parkways, playgrounds, utility and garbage easements, school sites, street widening, street changes; the points of ingress and egress from existing public streets on an accurate survey of the boundary of tract and topography with a contour interval of not less than five (5) feet or spot grades where the relief is limited.
- B. Where multiple types of land uses are proposed, a land use plan delineating the specific areas to be devoted to various uses shall be required.
- C. Identification of the base zoning districts assigned to each parcel or lot within the Planned Development District (PDD). If more than one base zoning district is being assigned, a map shall be included which shows which base zoning district is applied to each parcel or lot within the PDD boundary.
- D. Where building complexes are proposed, a site plan showing the location of each building and the minimum distance between buildings, and between buildings and the property line, street line and/or alley line shall be submitted. For buildings more than one (1) story in height, except single-family and two-family residences, elevations and/or perspective drawings may be required in order that the relationship of the buildings to adjacent property, open spaces and to other features of the development plan may be determined. Such drawings need only indicate the height, number of floors and exposures for access, light and air.
- E. A plan indicating the arrangement and provision of off street parking and off-street loading where required. Such a plan may be presented as a ratio of off-street parking and off-street loading area to building area when accompanied by a typical example indicating the feasibility of the arrangement proposed and when the area where the example would be applied are dimensioned on the drawing of the entire site. Any special traffic regulation facilities proposed or required to assure the safe function of the circulation plan shall also be shown.
- F. A designation of the maximum building coverage of the site shall be indicated upon the site plan.
- G. Screening and landscaping plan shall be required where such treatment is essential to the proper arrangement of the development in relation to adjacent property. Such plan shall, when required, include screening walls, ornamental planting, playgrounds, wooded areas to be retained, lawns and gardens if such are determined to be necessary by the City Council. A masonry wall or other equivalent noise attenuating barrier shall be placed to separate all uses

and activities on non-residential properties, including parking areas, from adjacent residential uses.

- H. Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the city administrator and interpretation of the building inspector.

#### 5.3.7. Development Conditions:

Every Planned Development District approved under the provisions of this Ordinance shall be considered as an amendment to the Zoning Ordinance as applicable to the property involved. In carrying out the development of a Planned Development District, the development conditions and the development schedule, if required, shall be complied with and such conditions as are specified for the development of a Planned Development District shall not be construed as conditions precedent to the granting of a certificate of occupancy and compliance as required in this Ordinance.

### 5.4. Special Use Permits (SUPs)

- 5.4.1. Special use permits are intended to allow for certain uses that are not permitted in a particular zoning district by right, but which may be permitted under certain circumstances and application of certain conditions. Such special uses shall be permitted through the issuance of a Special Use Permit (SUP).
- 5.4.2. The special use is granted only to the applicant and is limited to that which is specifically described in the special use permit application, as amended and approved by the Planning and Zoning Commission and the City Council.
- 5.4.3. Special Use Permits require an annual renewal, for which there is an annual renewal fee, for the permit to remain in effect. Rates are established by resolution of the City Council and are on file in the office of the City Secretary.
- 5.4.4. The permit must be completed within six months of the date approved by City Council or the permit becomes null and void and the applicant must reapply for the special use, thereby starting the process over in its entirety, including cost.
- 5.4.5. Whenever a special use permit is required, the planning and zoning commission may require a special use permit application to be accompanied by a site plan showing existing improvements on the land and proposed development of the property. The application shall provide the following information:
  - A. Date, scale, north point, title, name or owner and name of person preparing plan;
  - B. Location of existing boundary lines and dimensions of the tract;
  - C. Centerline of existing water courses, drainage features, and location and size of existing and proposed streets and alleys;
  - D. Location and size to the nearest one-half ( $\frac{1}{2}$ ) foot of all proposed buildings and land improvements;
  - E. Clear designation of areas reserved for oil street parking and for off-street loading; the location and size of points of ingress and egress; and the ratio of parking space to floor space.

5.4.6. The special permit application shall go before the Planning and Zoning Commission and the City Council, following the same procedure as a zoning amendment, as defined in 5.2 Zoning Review Procedure.

## 5.5. Variances

5.5.1. In specific cases and after receiving a recommendation from the Planning and Zoning Commission, the City Council, sitting as the Board of Adjustment pursuant to Texas Local Government Code § 211.008(g), may authorize a variance from the terms of this Ordinance, provided that the City Council shall have no power to grant a variation of the use of buildings and land.

5.5.2. An application for a variance shall go before the Planning and Zoning Commission and the City Council, following the same procedure as a zoning amendment, as defined in 5.2 Zoning Review Procedure.

5.5.3. Considerations by the City Council:

A. The City Council may authorize a variance from these regulations if and only if the City Council determines all of the following:

(1) the variance will not be contrary to the public interest;

(2) there are special conditions;

(3) because of the special conditions literal enforcement of the ordinance would result in unnecessary hardship;

(4) the spirit of the ordinance will be observed;

and (5) substantial justice is done.

B. For land being used or developed for a reason other than a homeowner building or improving the homeowner's residence, there is no unnecessary hardship unless:

(1) The Ordinance does not permit any reasonable use of the land.;

(2) The hardship complained of is not self-created; and

(3) The hardship complained of is not a financial hardship only.

C. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest.

D. In making the findings herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the area, and the probable effect of such variance upon traffic conditions and upon the public health, safety, and general welfare in the vicinity.

- E. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety, and welfare may be secured, and substantial justice be done.
- F. The findings of the City Council made in granting a variance, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted.

#### 5.5.4 Lapse of Variance

- A. Any rights authorized by a variance which are not exercised within one year from the date of granting such variance shall lapse and may be reestablished only after a new application, notice and hearing pursuant to this Section 5.5.
- B. The City Council may waive the requirement for the payment of fees for such variance renewal application if there has been no material change of conditions pertaining to the property since the granting of the first variance.

### 5.6. Appeals

- 5.6.1. Appeals from action of the City Council: Any person or persons, jointly or severally, aggrieved by any decision of the City Council or any taxpayer or any officer, department, board or bureau of the municipality may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision at City Hall.
- 5.6.2. Upon presentation of such petition the court may allow a writ of certiorari directed to the City Council and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the City Council and on due cause shown, grant a restraining order.
- 5.6.3. The City Council shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 5.6.4. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with its findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm wholly or partly, or may modify the decision brought up for review.
- 5.6.5. Costs shall not be allowed against the Council unless it shall appear to the Court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

### 5.7. Vested Rights Petition

- 5.7.1. Purpose, Applicability and Effect

- A. This Section 5.7 establishes criteria for determining whether a project is entitled to vested rights under Chapter 245 or Section 43.002 of the Texas Local Government Code.
- B. A vested rights petition may be filed relating to a development application required by the City which has been filed in accordance with Chapter 245 of the Texas Local Government Code, or successor statute. A vested rights petition must not be filed with a petition for a text amendment, a zoning map amendment, or any other request for a legislative decision by the City Council.
- C. Upon the granting of a vested rights petition in whole or in part, the city manager shall process all development applications that are the subject of the petition in accordance with the ordinances and development standards stated in the order or decision granting of petition..

### 5.7.2. Petition Requirements

- A. Who May Petition. A vested rights petition may be filed with any application for a permit which is required by the City, related to buildings, land subdivision or land development, by a property owner, or the owner's duly authorized representative.
- B. Form of Petition. The vested rights petition must allege that the petitioner has rights relating to some, or all, of the land which is the subject of the application, under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition must include the following information and documents:
  - 1. A summary of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
  - 2. The date on which the applicant claims that vested rights accrued and a copy of each approved or pending application, permit, fair notice, or other document which is the basis for the contention;
  - 3. The official submission date of the development application;
  - 4. The date the project for which the development application was submitted was commenced;
  - 5. Identification of all current standards from which relief is sought;
  - 6. A narrative description of how the application of current standards affects the proposed development plan or use of the land on the application for which the petition is filed;
  - 7. A copy of any prior vested rights determination involving the same land; and
  - 8. Whenever the petitioner alleges that a development application which is subject to expiration should not be terminated, a description of the events evidencing a progression toward completion of the project for which the development application was approved.
- C. Time for Filing Petition. A vested rights petition must be filed at the same time as an application for which a vested right is claimed, except that the petition may also be filed before the date of expiration of any development application. Where more than one application is authorized to be filed simultaneously, the petition may be filed simultaneously with each application.

### 5.7.3. Processing of Petitions and Decision

- A. Responsible Official.
  - 1. The city manager is the responsible official charged with processing the application associated with the petition.
  - 2. The city manager shall promptly forward a copy of the vested rights petition to the City Attorney following the filing of the petition.
- B. Initial Decision. The city manager shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the Initial Decision-Maker's reasoning and setting forth the decision on the petition.
- C. Appeal of Decision on Petition. The applicant may appeal the city manager's decision on the vested rights petition to the city council sitting as the Board of Adjustment in accordance with Section 5.1.2.
- D. Effect on Related Applications. A copy of the final decision on the vested rights petition (or appeal) under this Section 5.7 must be submitted as part of the application requirements for any related and subsequently filed plat or development application. No related application will be accepted as complete without such a final decision having been rendered, and without the submission of the final decision documentation having been included with the application.

#### 5.7.4. Action on Petition and Order

- A. Action on the Petition. Not later than fifteen business days after acceptance of a complete vested rights petition, the city manager shall review the petition, using the Criteria for Approval under Section 5.7.5 and render a determination. The city manager may take any one of the following actions:
  - 1. Grant the relief requested in the petition, and direct that the application be reviewed and decided in accordance with the standards contained in identified prior regulations;
  - 2. Grant the relief requested in part, and direct that certain identified current standards be applied to the application, while standards contained in identified prior regulations also shall be applied;
  - 3. Deny the relief requested in the petition, and direct that the application be reviewed and decided under currently applicable standards; or
  - 4. Specify the expiration date or the conditions of expiration for the development application(s), if no expiration date was specified for the initial development application.
- B. The city manager may approve a petition in part if a project is legally entitled to some, but not all, of the rights asserted in the petition, or if a change in the scale or intensity of development is necessary to maintain conformity with the original project. A vested rights determination may not waive or modify applicable regulations or provide relief which is not provided for through Chapter 245 or Section 43.002 of the Texas Local Government Code.
- C. Order on Petition. The city manager shall issue a written report and decision on the vested rights petition which shall include statements, findings, and determinations on the following:
  - 1. The nature of the relief granted, if any;

2. The approved or filed application(s) upon which relief is premised under the petition;
3. Current standards which shall apply to the application for which relief is sought, if applicable;
4. Prior standards which shall apply to the application for which relief is sought, including any procedural standards, if applicable;
5. The statutory basis or other grounds upon which relief is denied in whole or in part on the petition;
6. To the extent feasible, subsequently filed related applications that are subject to the same relief granted on the petition; and
7. For petitions where no expiration of application approval was indicated, the date of expiration of the development application.

#### 5.7.5. Criteria for Approval

- A. Deciding a vested rights petition. The decision-maker, whether the city manager or the city council, shall decide a vested rights petition pursuant to the criteria described in this Section 5.7.5.
- B. General Standard. A permit application may be approved and the project granted rights under Chapter 245 and Section 43.002 of the Local Government Code if approval of the permit is required to initiate, continue, or complete a project for which a prior permit or fair notice application was submitted to the City. An application may not be approved if the permit is unrelated to or inconsistent with the original project or if the original project has been completed, changed, or expired.
- C. Review Criteria. In determining the relief to be granted, if any, on a vested rights petition that alleges rights under Chapter 245 or 43.002 of the Texas Local Government Code, the decision-maker shall consider the following factors, where applicable:
  1. The nature and extent of proposed development shown on the prior permit or other application that initiated the project for which vested rights are claimed;
  2. Whether the permit application submitted in connection with the vested rights petition is related to, and consistent with, the original project;
  3. The nature and extent of prior development of the property, including any permitting or construction activity that occurred subsequent to the vesting date requested by the applicant;
  4. Any prior vested rights determinations made for development of the property;
  5. Whether current standards adopted after commencement of the project affect the proposed use of the land, landscaping, tree preservation, open space, park dedication, lot size, lot dimensions, lot coverage, or building size based upon the proposed application;
  6. Whether any statutory exception applies to the standards in the current code of ordinances from which the applicant seeks relief; and
  7. Whether any prior approved applications relied upon by the petitioner have expired.

#### 5.7.6. Application Following Final Decision on Petition

- A. After the City has reached a final decision on a vested rights petition, the property owner must revise the application for which relief was sought to conform said application to the

final decision, unless the relief granted on the vested rights petition is consistent with the application on file.

- B. The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application and in conformity with the relief granted on the petition.
- C. If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary.

#### 5.7.7. Expiration and Extension

- A. Expiration. Any relief which may have been granted on a vested rights petition expires on occurrence of any one of the following events:
  - 1. The petitioner or property owner fails to submit a required revised application consistent with the relief granted within sixty calendar days following the final decision on the petition;
  - 2. The application for which relief was granted on the vested rights petition is denied; or
  - 3. The application for which relief was granted on the vested rights petition expires.
- B. Extension. Any extension of the expiration date for the application for which relief was granted on a vested rights petition also extends the relief granted on the petition for a like period.

### 5.8. Subsequent Amendments

5.8.1. Any subsequent map changes that would consist of rezoning of a property shall require a new application and shall be processed as such.

#### 5.8.2. Subsequent Minor Amendments

- A. The city manager may permit minor amendments to a Planned Development District or a Special Use Permit without amendment to the ordinance.
- B. The following are considered minor amendments:
  - 1. Corrections in spelling, distances and labeling
  - 2. Changes in building position or layout that are less than ten feet or ten percent of the total authorized building area, provided the modification conforms to the Code.
  - 3. Changes in the proposed property lines, provided the original total project acreage is not exceeded, and the area of any zoning district is not changed by more than five percent. See the Map Boundary Changes section.
  - 4. Changes in parking layout, provided the modified layout conforms to the Code.

#### 5.8.3. Subsequent Major Amendments

- A. Any subsequent amendment which is not classified as a minor amendment is considered a major amendment.
- B. Major amendments to a Planned Development District or a Special Use Permit shall require initiation of a new application and shall be processed as such.

## 6. APPENDICES

- 6.1. **DEFINITIONS.** The purpose of this section is to define words, terms, and phrases contained within this Ordinance, unless otherwise specifically defined elsewhere in this Ordinance. Words, terms, and phrases not defined in this Ordinance shall be given their normal, ordinary, every day meaning. All words, terms, and phrases in this Ordinance are subject to the interpretation of the city manager.
- 6.1.1. Abutting: Sharing all or a portion of a property boundary line or border; touching.
- 6.1.2. Accessory Building: A subordinate building or a portion of the main building located on the same lot as the main building, the use of which is incidental to that of the dominant use of the building or premises.
- 6.1.3. Accessory Structure. Any structural addition to the recreational vehicle or site, including awnings, cabanas, carports, garages, porches, storage cabinets, storage sheds, and similar appurtenant structures.
- 6.1.4. Accessory Use: A use customarily incidental, appropriate and subordinate to the principal use of land or buildings and located upon the same lot therewith.
- 6.1.5. Adjacent: Lying near or close to, but not necessarily touching.
- 6.1.6. Administration Facilities: Administrative and clerical offices, public contact services, charitable institutions, and incidental activities of federal, state, county, city, and other governmental offices. Typical uses include city halls, post offices, and field offices of federal and state agencies.
- 6.1.7. Advertising Sign or Structure: Any cloth, card, paper, metal, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever, including a statuary, place for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure shall be determined as the area of the largest cross-section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this Ordinance.
- 6.1.8. Alley: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
- 6.1.9. Animal Services: Businesses engaged in the treatment, care, or boarding of animals, and for which an outside run may be present, provided that it conforms with the use standards for animal services in this Ordinance. The uses typically include veterinary hospitals, kennels and commercial stables.
- 6.1.10. Automobile: A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including but not limited to the following: passenger cars, trucks, busses, motor scooters, and motorcycles.
- 6.1.11. Automotive, marine and farm implements: Businesses engaged primarily in automotive, marine, and heavy equipment related sales and/or services. This includes, but is not limited to, any one or more of the following for automobiles, farm and implement equipment, motorcycles, boats, and other motorized vehicles: show rooms, automotive washing, commercial off-street parking (not an accessory to another use), rentals, long-term vehicle storage, and repair services (not an accessory to an automotive fuel and service station).

- 6.1.12. Barndominium: A structure with a steel or wood frame, with sheet metal siding and roofing, used as a dwelling.
- 6.1.13. Basement: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.
- 6.1.14. Basic Industry: All industrial uses including those engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in the storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions. Typical uses include food processing and dehydrating; salvage yards; rubber products; tire recapping; welding shops; shop forges; tool and die shops; machine shops and metal products; manufacturing of chemicals, acids, pharmaceuticals, fertilizers, and plastic products; wood, paper, textile, and leather products; manufacturing and processing of construction materials; and mineral extraction.
- 6.1.15. Bed and Breakfast: An establishment containing 5 or fewer sleeping rooms that rents sleeping rooms on a nightly basis to guests, and that provides breakfast or brunch included in the price of the accommodation. The owner lives on the premises.
- 6.1.16. Billboard: A single or double-faced outdoor sign which advertises goods, products, or services that are not sold or offered on the property where the sign is located, and which is either: (a) larger than 200 square feet in size; or (b) is mounted above the highest permitted building height for the zoning district in which the sign is located.
- 6.1.17. Boarding house: Establishments renting more than one sleeping room that is a part of the main house on the property for a period of time exceeding 14 days. Meals may be a part of the price of the accommodation or may be paid for separately. The owner lives on the premises.
- 6.1.18. Broadcast/Reception Equipment: - Antennas, towers and satellite dishes used to broadcast and/or receive signals for radio, television, radar, or other telecommunications for other than personal use.
- 6.1.19. Building Height: The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- 6.1.20. Building Official: The official designated by the city manager that is responsible for the inspection of electrical, mechanical and plumbing associated with a property.
- 6.1.21. Building, Main: A building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.
- 6.1.22. Building: Any structure intended for shelter, housing or enclosure for persons, animals, or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate building.
- 6.1.23. Camper: A separate vehicle designed for human habitation which can be attached and detached to or towed by a motor vehicle.
- 6.1.24. Cemetery: Land used or intended to be used for burial of the dead. Crematoriums, columbariums, mausoleums, and mortuaries are permitted when operated in conjunction with and within the boundaries of the cemetery.
- 6.1.25. Child Care Center: Any place, home or institution which receives three (3) or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for

compensation; provided, however, this definition shall not include public and private schools organized, operated, or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or other church activities.

- 6.1.26. City Manager: The city manager of the City of Smithville, Texas or the designee thereof.
- 6.1.27. Code Official: The official of the City designee charged with the enforcement of the provisions of this article.
- 6.1.28. Commercial Recreation: Businesses engaged primarily in the provision of facilities for sports, entertainment, or recreation for participants or spectators indoors or outdoors. The facilities may be open to the general public or restricted to registered members or guests (excluding those uses defined as Public Recreation). Typical uses include amusement arcades, bowling alleys, roller-skating rinks, camping facilities, golf courses and driving ranges, amusement parks, motor raceways, zoos and movie theaters.
- 6.1.29. Commercial Vehicle: A motor vehicle that is used primarily to engage in commerce. This includes tractors and any other farm related equipment.
- 6.1.30. Commercial Use: Any use specifically enumerated under the regulations of a Commercial District, excluding any Residential Use.
- 6.1.31. Communications Services: Businesses engaged primarily in the recording and broadcasting of information or entertainment and other services. Typical uses include radio and television studios, as well as recording studios.
- 6.1.32. Comprehensive Plan: The comprehensive plan for the long-range development of the city adopted by the city under Chapter 213, Texas Local Government Code, as the same may be amended, revised, replaced, restated, or otherwise modified from time to time.
- 6.1.33. Condominium: A condominium consists of multiple units, each individually owned, on a single lot or property. It is a multifamily residential complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased.
- 6.1.34. Conex: A steel or metal shipping container originally designed to be used for intermodal shipping. It includes but is not limited to cargo or freight containers, ISO containers, and Conex boxes.
- 6.1.35. Controlling Interest: A person or developer who controls at least fifty-one percent (51%) of ownership.
- 6.1.36. Convalescent, Rest or Nursing Home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.
- 6.1.37. Country Inn: An establishment containing more than 5 sleeping rooms and that rents sleeping rooms on a nightly basis to guests and that provides one or more meals included in the price of the accommodation. Owner may or may not live on the premises and usually has employees who help with food service and housekeeping. Country Inns shall be located on lots that are at least 21,000 square feet in area.
- 6.1.38. Coverage: The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.
- 6.1.39. Cultural Facilities: Facilities and uses engaged in preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences. Typical uses include libraries, exhibition grounds, museums, and auditoriums or similar registered non-profit organizational uses.

- 6.1.40. Dental Clinic or Medical Clinic: A facility for the examination and treatment of ill and afflicted human out-patients provided that patients are not kept overnight except under emergency conditions.
- 6.1.41. Disposal plant: Facilities for the disposal of trash, garbage, waste and refuse, including but not limited to landfills, sewage treatment plants, sewage lagoons, and composting plants.
- 6.1.42. District: Any section or sections of the city for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.
- 6.1.43. District, Residential. Any district listed under Section 2.1.1, a PDD with a base zoning district listed under Section 2.1.1, and the PD-Z Zero Lot Line District.
- 6.1.44. District, Commercial. Any district listed under Section 2.1.2 and a PDD with a base zoning district listed under Section 2.1.2.
- 6.1.45. Dwelling Unit: That portion or all of a dwelling that is designed for or used as living quarters by one (1) family.
- 6.1.46. Dwelling, Duplex or Two-Family: A detached dwelling containing two (2) dwelling units.
- 6.1.47. Dwelling, Multiple Family: "Multiple family" and "multi-family" both mean a detached dwelling containing three (3) or more dwelling units, including a residential condominium created under Chapter 82, Texas Property Code, but not including a hotel or motel.
- 6.1.48. Dwelling, Single-Family: A detached dwelling comprising one dwelling unit designed to be occupied by one (1) family.
- 6.1.49. Dwelling: Any building designed for or used as living quarters by one (1) or more families.
- 6.1.50. Educational Facilities: Public and private primary, secondary, and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the public schools of the State of Texas. This category does not include private trade, technical, business, or professional schools.
- 6.1.51. Family: One (1) or more persons related by blood, marriage or adoption, or a group of not to exceed five (5) persons not all related by blood or marriage.
- 6.1.52. Garage Apartment: A dwelling unit for one (1) family that shares at least one (1) common wall with or is above a private garage.
- 6.1.53. Garage Parking: Any building, or portion thereof, used for the storage of four (4) or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.
- 6.1.54. Garage, Private: An accessory building or a part of a main building, enclosed on all sides, which is used for storage of automobiles and used solely by the occupants and their guests.
- 6.1.55. Garage, Repair: A building in which are provided facilities for the care, servicing, repair or equipping of automobiles.
- 6.1.56. Gasoline Service or Filling Station: Any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, or other automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but not including painting, major repair or automatic washing or the sale of butane or propane fuels.
- 6.1.57. General Retail: Establishments serving a large market area and engaged primarily in the rental or sale of retail goods and services commonly purchased by the general public, excluding those commercial uses classified more specifically in other commercial sections. Typical uses include the sale of appliances; air conditioning, plumbing, electrical and heating equipment and service; antiques; auction houses (except livestock); automotive fuel and service; auto parts; bicycle sales and service; business, trade or technical schools; cafes, delicatessens, restaurants, and caterers;

- carpet and rug cleaners; department stores; feed and fertilizer; furniture and upholstery; pets and supplies; home improvement and building materials; hotels and motels; gun shops; greenhouses and plant nurseries; pet stores; radio and television sales and service; supermarkets; and variety stores. Pawn brokerages and sexually oriented businesses are excluded from general retail.
- 6.1.58. Government Sign: A sign erected and maintained on a site pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.
- 6.1.59. Group Residential: A dwelling unit designed, arranged, or used for occupancy by more than 6 persons, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, and boarding houses.
- 6.1.60. Guest House/Studio: Living quarters within a detached accessory building, which is built to residential building code requirements and which is located on the same lot or parcel of land as the primary structure and used exclusively for the housing of members of the family occupying the main building or their non-paying guests.
- 6.1.61. Home-based Business: Any home-based business carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, but which is conducted entirely within the main or accessory buildings; provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or advertising sign other than one (1) nonilluminated nameplate not more than four (4) square feet in area attached to the main or accessory building, and no mechanical equipment is used except such as is customary for purely domestic or household purposes. A beauty or barber shop, tea room or restaurant, rest home or clinic, doctor's or dentist's office, child care center, tourist home, or cabinet, metal or auto repair shop shall not be deemed a home occupation.
- 6.1.62. Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.
- 6.1.63. Hotel/motel: An establishment renting sleeping rooms on a nightly basis. Generally, the number of rooms is over 10 and, generally, each room is provided with a separate complete bathroom facility (tub or shower, lavatory and toilet). Meals are usually not a part of the price of the accommodation.
- 6.1.64. HUD-code Manufactured Home, Manufactured Home, or Manufactured Housing: a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as defined by 24 C.F.R. § 3282.8(g).
- 6.1.65. Industrialized Housing: A structure defined as "industrialized housing" under Chapter 1202, Texas Occupations Code. Industrialized housing is commonly also known as a modular home.
- 6.1.66. Industrialized Building: A structure defined as an "industrialized building" under Chapter 1202, Texas Occupations Code.
- 6.1.67. Kennel: Any lot or premises on which are kept four (4) or more dogs, more than six (6) months of age in exchange for payment or other consideration.
- 6.1.68. Key Lot: A lot having frontage on two (2) intersecting streets, such lot abutting that intersection, and having abutting lots on both streets fronting on those streets.

- 6.1.69. Licensee or Agent: A person who may or may not own the RV Park but is person responsible for the day to day operations including records and license of the park.
- 6.1.70. Light Manufacturing: Uses engaged primarily in the processing, fabrication, assembly, treatment, and packaging of finished products and parts, including the incidental storage and distribution of such products. Typical uses include printing and publishing facilities, and research and development facilities. Basic Industry uses are excluded.
- 6.1.71. Limited Retail: Establishments engaged primarily in the rental or retail sale of goods and services for personal consumption or improvement or household use, except those items specifically defined under General Retail, generally serving a neighborhood, local area, or portion of the city. Typical uses include antique and furniture stores; appliance retail and repair shops; art supply, craft, and hobby shops (without an outside garage); bakery with local sales and distribution; barber and beauty shops; book or stationery stores; cafes, delicatessens, restaurants, and caterers; camera stores; convenience stores, including those with self-service automotive fueling stations; dressmakers and tailors; dry cleaners and laundries; fabric shops; florists; frozen food lockers; garden shops; hardware and paint stores; health or athletic clubs; jewelers; optical shops; photo, artistic, dance, and music studios and galleries; pharmacies and soda fountains; travel agencies; printing and copying shops; and bed and breakfasts. Pawn brokerages and sexually oriented businesses are excluded from limited retail.
- 6.1.72. Lot Lines: The lines bounding a lot.
- 6.1.73. Lot, Area: The total area measured on a horizontal plane, included within lot lines.
- 6.1.74. Lot, Corner: A lot abutting two or more streets at the intersection of such streets.
- 6.1.75. Lot, Depth: The mean horizontal distance between the front and rear lot lines.
- 6.1.76. Lot, Frontage: That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.
- 6.1.77. Lot, Interior: A lot other than a corner lot.
- 6.1.78. Lot: A single, legally created parcel of land intended as a unit for transfer of ownership or for development and having frontage on a public street. The term "lot" includes the terms "plot," "parcel," "tract" and similar terms.
- 6.1.79. Manufactured Home Park or MH Park: Land zoned MH for which the city has issued a license pursuant to Section 4.1 of this Ordinance and which is in compliance with all of said Section 4.1.
- 6.1.80. Medical Services: Establishments providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts and licensed for such practice by the State of Texas. Typical uses include clinics, convalescent homes, hospitals, laboratories, veterinary clinics (without any outside facilities), and sanitariums. Uses include dental clinics, medical clinics, and funeral services.
- 6.1.81. Mixed Use: A mix of residential, office, retail, industrial, community facilities, and commercial uses, or any combination thereof, within the same building or lot.
- 6.1.82. Mobile Home: A structure that was built before June 15, 1976, transportable in one or more sections, which, in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on-site, is 320 or more square feet, and which is built on permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing heating, air conditioning, and electrical systems.
- 6.1.83. Motor Home: A self-contained vehicle designed for human habitation with its own motive power and with a passageway from the body of the home to the driver and front passenger seats.

- 6.1.84. Motor Vehicle: A self-propelled device in, upon or by which any person or property is or may be transported.
- 6.1.85. Multi-Tenant Sign: An on-premise pole sign that advertises three or more occupancies on the same premises.
- 6.1.86. Neighboring Resident: A person or persons whose primary place of residence is within 200 feet of the property in question. Measurement shall be from property line to property line.
- 6.1.87. Office: Establishments engaged primarily in services including, but not limited to, the fields of accounting and finance, architecture, banking and investment, design, engineering, employment, insurance, law, management, planning and development, and real estate. Uses may also include individual medical and dental offices.
- 6.1.88. Parking Space: A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile parking space with a street or alley and permitting ingress or egress of an automobile.
- 6.1.89. Pawn Brokerages: Establishments engaged in the sale of goods traded as security for personal loans that are repaid by the borrower through a repurchase agreement or by a third party through the purchase of the goods.
- 6.1.90. Public Health Center: A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.
- 6.1.91. Public Recreation Facility: Publicly owned and operated parks, recreation areas, playgrounds, swimming pools, and open spaces available for use by the general public without requirement of membership or affiliation.
- 6.1.92. Public Safety Facility: Facilities for the conduct of public safety and emergency services, including police and fire protection, emergency medical and ambulance services, and city and county jails.
- 6.1.93. Public Use Phone: A phone used by registrants of the RV Park for emergency purposes.
- 6.1.94. Recreational Vehicle or RV: Any licensed camp trailer, travel trailer, motor home or fifth wheel designed to provide temporary living quarters for recreational camping or travel use, constructed with integral wheels to make it mobile and/or towable by motor vehicle. (Reference Chapter 12 – “Traffic and Vehicle” Ordinance, City of Smithville).
- 6.1.95. Recreational Vehicle Park or RV Park: Any lot, tract, or parcel of land upon which accommodation is provided for two or more recreational vehicles used as living or sleeping quarters by the day, week, or month, whether a charge is or is not made. A recreational vehicle park is a unified development of recreational vehicle spaces provided for recreational vehicle use with or without community facilities and permitted permanent buildings.
- 6.1.96. Recreational Vehicle Site or RV Site: That part of a lot or area in a recreational vehicle park or RV Park that has been reserved for the placement of one recreational vehicle or RV.
- 6.1.97. Religious Facility: A use located in a permanent building and providing regular organized religious worship and religious education incidental there to, but excluding private primary and secondary educational facilities, recreational facilities, and day care services. Typical uses include churches, synagogues, and religious worship centers. A property tax exemption obtained pursuant to the Property Tax Code of the State of Texas shall constitute prima facie evidence of religious use.
- 6.1.98. Research and Development Facility: Uses that engage in scientific research, laboratory testing, and product development.
- 6.1.99. Residential Use: Any dwelling, provided that the term, “Residential Use,” does not include bed and breakfast, boarding house, country inn and hotel/motel uses.

- 6.1.100. Rooming House: A building where lodging only is provided for compensation to three (3) or more, but not exceeding twenty (20) persons. A building which has accommodations for more than twenty (20) persons shall be defined as a hotel under the terms of this Ordinance.
- 6.1.101. Sanitarium: An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.
- 6.1.102. Self-Service Laundry or Dry-Cleaning Establishment: Any attended or unattended place, building or portion thereof, available to the general public for the purpose of washing, drying, extracting moisture from or dry-cleaning wearing apparel, cloth, fabrics, and textiles of any kind by means of a mechanical appliance which is operated primarily by the customer.
- 6.1.103. Service Maintenance Facility: Facilities and structures relating to the provision and maintenance of various services to local residents by a public, semi-public, or private entity. Services may include, but shall not be limited to, animal control, solid waste disposal, and utilities such as water, wastewater, natural gas, electricity, telephone, and cable communications.
- 6.1.104. Stable, Private: A stable with a capacity for not more than two (2) horses or mules.
- 6.1.105. Stable, Public: A stable, other than a private stable, with a capacity for more than two (2) horses or mules.
- 6.1.106. Standard Masonry Construction: Having at least seventy-five (75) percent of the exterior walls of a building constructed of brick, stone, or other masonry construction.
- 6.1.107. Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.
- 6.1.108. Story: That portion of a building, other than a basement, included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- 6.1.109. Street, Intersecting: Any street which joins another street at an angle, whether or not it crosses the other.
- 6.1.110. Street: Any public or private thoroughfare which affords the principal means of access to abutting property.
- 6.1.111. Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, beams, columns, or girders, or any substantial change in the roof or in the exterior walls.
- 6.1.112. Structure: Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.
- 6.1.113. Temporary Construction Building: An office, shed or other temporary structure that is incidental to a construction project. Temporary construction buildings do not contain sleeping or cooking accommodations.
- 6.1.114. Tiny house: A single family dwelling that is 400 square feet or less in floor area, excluding lofts, provided that the definition does not include a garage apartment.
- 6.1.115. Tourist Court: An area containing one (1) or more buildings designed or intended to be used as temporary sleeping facilities of one (1) or more transients and intended primarily for automobile transients.
- 6.1.116. Tourist Home: A dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations in not more than four (4) rooms are provided or offered for transient guests for compensation.
- 6.1.117. Townhouse: A townhouse is a type of multifamily residence with between two (2) and six (6) dwelling units, with each unit extending from the ground to the roof and where each unit joined

to other residential units on either side by a common wall, and with each unit has its own outside access.

- 6.1.118. Trailer: A vehicle without motive power designed for carrying persons, animals, or property on its own structure and to be drawn by a vehicle with motive power. The term shall include, but not be limited to, semi-trailer and utility trailer.
- 6.1.119. Trailer Court or Mobile Home Park: A parcel of land which has been designed or improved or intended to be used or rented for occupancy by one (1) or more trailer houses or mobile homes.
- 6.1.120. Trailer or Mobile Home Space: A plot of ground within a trailer court designed for the accommodation of one (1) mobile home.
- 6.1.121. Trailer, Hauling: A vehicle to be pulled behind an automobile or truck which is designed for hauling animals, produce, goods or commodities, including boats.
- 6.1.122. Trailer, Travel or Camping: A portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting the principal place of residence of the occupants, and not exceeding thirty-eight (38) feet in total length and eight (8) feet in width.
- 6.1.123. Transportation Facility: A facility for the loading, unloading, and interchange of passengers and incidental baggage, freight, and package express between modes of transportation, including bus depots, railroad stations, airport terminals and mass transit facilities.
- 6.1.124. Trees, Park: Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.
- 6.1.125. Trees, Street: Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
- 6.1.126. Warehousing & Distribution Facility: Uses engaged primarily in the handling, warehousing and distribution of materials and equipment, other than live animals or plants, either in enclosed structures or open-air fenced-in areas. Typical uses include monument or stone yards, wholesale and retail distribution centers, self-service storage facilities, and moving and storage firms.
- 6.1.127. Yard, Front: The front yard shall be defined as the yard fronting the name street.
- 6.1.128. Yard, Rear: A yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.
- 6.1.129. Yard, Side: A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and the outside wall of the side of the main building.
- 6.1.130. Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.
- 6.1.131. Zoning District Map: The zoning district map of the city adopted as part of this Ordinance pursuant to Section 1.12.1 of this Ordinance, as the same may be amended, revised, replaced, or otherwise modified from time to time.

## 6.2. MASTER TABLE OF USES

PARTICULAR USE BY CATEGORY	DISTRICT																PD-Z
	SF1	SF2	TH	MR	MF	MH	MHS	C1	C2	C3	CBD	RVP	I	P	CF	PDD	
<b>RESIDENTIAL</b>																	
Single family detached	X	X	X	X	X	X	X	X	X	X	X		X				X
Multiple-family					X	X		X	X	X	X		X				
Townhouse			X					X	X	X	X		X				
Duplex/2-family dwelling		X	X	X	X	X		X	X	X	X		X				
Manufactured home				X		X	X										
<b>PROFESSIONAL SERVICES</b>																	
Office or professional services								X	X	X	X		X				
Home-based business	sup	sup	sup	sup	sup	sup	sup	X	X	X	X		X				
Child care center	sup	sup	sup	sup	sup	sup	sup	X	X	X	X		X				
Medical services										X	X		X		X		
<b>RETAIL</b>																	
Limited retail								X	X	X	X		X				
General retail									X	X	X		X				
Mixed Use											X		X				
Temporary produce stand								X	X	X	X						
<b>COMMERCIAL</b>																	
Animal services								X	X	X	X		X				
Bed and breakfast	sup	sup	sup	sup	sup	sup	sup	X	X	X	X		X				
Country inn	sup	sup	sup	sup	sup	sup	sup	X	X	X	X		X				
Boarding house	sup	sup	sup	sup	sup	sup	sup	sup	sup	sup	sup		sup				
Hotel/Motel									X	X	X		X				
Commercial recreation									X	X	X		X				
Carnival (temporary)										sup	sup		sup	X			
Communications services									X	X	X		X				
Pawn brokerage													X				
Sexually-oriented business													sup				
Recreational vehicle park												X					

X – permitted by right

sup – by Special Use Permit only

blank – not permitted

**DISTRICT**

<b>PARTICULAR USE BY CATEGORY</b>	SF1	SF2	TH	MR	MF	MH	MHS	C1	C2	C3	CBD	RVP	I	P	CF	PDD	PD-Z
<b>INSTITUTIONAL</b>																	
Church/religious institution	sup	sup		sup					sup	X	X		X		X		
Administration											X		X		X		
Cultural											X		X		X		
Public safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Educational facility	sup	sup		sup				X	X	X	X		X		X		
Public recreation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cemetery															X		
<b>INDUSTRIAL</b>																	
Basic industry													X				
Light industrial											X		X				
Manufacturing (enclosed in a building)													X				
Cement, lime or gypsum manufacturing													sup				
Natural gas production and distribution													sup				
Petroleum production and refining													sup				
Wholesale/ bulk storage of petroleum products													sup				
Disposal plant													sup				
Salvage yard													sup				
Warehouse and distribution									X	X	X		X				
Research and development									X	X	X		X				
<b>TRANSPORTATION</b>																	
Auto, marine, farm sales								X	X	X	X		X				
Service, maintenance, transportation								X	X	X	X		X		X		
<b>TEMPORARY AND ACCESSORY BUILDINGS</b>																	
Accessory buildings	X	X	X	X	X	X	X	X	X	X	X	X	X		X		X
Garage																	
Apartment		X	X	X	X	X		X	X	X	X		X				
Guest House	sup	X	X	X	X	X		X	X	X	X		X				
Private garage	X	X	X	X	X	X		X	X	X	X		X				X
Temp. construction building				X		X		X	X	X	X	X	X				

**X – permitted by right**

**sup – by Special Use Permit only**

**blank – not permitted**

**6.3. MASTER TABLE OF DIMENSIONAL STANDARDS**

DIMENSION	DISTRICT					
	SF-1	SF-2	TH	MF	MH	MHS
Height	2½ stories <sup>(1)</sup>	2½ stories <sup>(1)</sup>	2½ stories <sup>(1)</sup>	2½ stories <sup>(1)</sup>	2½ stories <sup>(1)</sup>	1½ stories <sup>(11)</sup>
Minimum front yard setback	25 ft	25 ft	15 ft	25 ft	25 ft <sup>(7)</sup>	25 ft
Minimum side yard setback, primary building	7 ½ ft <sup>(3)</sup>	5 ft <sup>(3)</sup>	7 ½ ft <sup>(25, 26)</sup>	25 ft	15 ft <sup>(8)</sup> ; 30 ft <sup>(20)</sup>	7 ½ ft <sup>(3)</sup>
Minimum side yard setback, accessory building	3 ft	3 ft				3 ft
Minimum side yard setback, corner lot, first 65ft from front property line	15 ft <sup>(2)</sup>	15 ft <sup>(2)</sup>	15 ft <sup>(25,26)</sup>			15 ft <sup>(2)</sup>
Min. side yard setback, corner lot, >65ft from property line	7 ½ ft <sup>(3)</sup>	5 ft <sup>(3)</sup>				
Minimum side yard setback, churches	25 ft	25 ft				
Minimum distance between buildings on a lot				20 ft	30 ft	
Minimum rear yard setback	20 ft or 20% lot depth <sup>(5)</sup>	20 ft or 20% lot depth <sup>(5)</sup>	20 ft or 20% lot depth <sup>(5)</sup>	25 ft <sup>(6)</sup>	25 ft <sup>(9)</sup>	25 ft or 20% lot depth <sup>(5)</sup>
Minimum rear yard setback, accessory buildings	3 ft	3 ft				3 ft
Minimum lot size, residential use	6,500 sf	6,500 sf <sup>(4)</sup>	3,125 sf	15,000 sf	3,000 sf <sup>(10)</sup>	6,500 sf
Minimum lot size, churches	21,000 sf	21,000 sf				
Minimum size(park/subdivision)					¾ acre <sup>(22)</sup>	2 ½ acre <sup>(23)</sup>
Minimum lot width	50 ft at front building line, 35 ft at street	50 ft at front building line, 35 ft at street	25 ft			50 ft at front building line, 35 ft at street
Minimum lot depth			125 ft			
Maximum lot coverage by buildings	40% lot area	40% lot area	70% lot area	70% lot area		40% lot area
Maximum rear yard coverage by accessory buildings	30% rear yard	30% rear yard				30% rear yard
Minimum open space			30% gross land area	30% gross land area		

DIMENSION	DISTRICT					
	MR	C-1	C-2	C-3	CBD	RVP
Height	2 ½ stories (1)	2 ½ stories (1)	2 ½ stories (1)	2 ½ stories (1)	50 feet	35 feet
Minimum front yard setback	25 ft	25 ft	25 ft (12)	25 ft	Prohibited (24)	40 ft
Minimum side yard setback	5 ft (3)	10 ft	10 ft	10 ft	Prohibited (24)	40 ft
Minimum side yard setback, accessory building	3 ft					
Minimum side yard setback, corner lot	15 ft (2)					
Minimum side yard setback, churches	25 ft					
Minimum rear yard setback	20 ft or 20% lot depth (5)	10 ft	10 ft	10 ft	10 ft	10 ft
Minimum rear yard setback, accessory uses	3 ft					
Minimum lot size, residential use	6,500 sf (4)					
Minimum lot size, churches	21,000 sf					
Minimum lot size, country inn		21,000 sf	21,000 sf	21,000 sf	21,000 sf	
Minimum lot width	50 ft at front building line, 35 ft at street					
Maximum lot coverage by buildings	40% lot area					
Maximum rear yard coverage by accessory buildings	30% rear yard					

DIMENSION	DISTRICT				
	I	P	CF	PDD	PD-Z
Height	50 ft		2 ½ stories (1)		2 ½ stories (1)
Minimum front yard setback			25 ft		20 ft
Minimum side yard setback			10 ft (12)		15 ft combined (15)
Minimum side yard setback, corner lot			25 ft		
Minimum distance between buildings on a lot					
Minimum rear yard setback			30 ft		
Minimum lot size, residential use					5,000 sf
Minimum lot size, churches					
Minimum lot size, country inn	21,000 sf				
Minimum lot size, all other uses					5,000 sf
Minimum size of district				5 acres	
Minimum lot width					40 ft
Minimum lot depth					
Maximum dwelling units, series of attached dwellings					
Maximum length consecutive single family attached units					
Maximum lot coverage by buildings					40%

## NOTES ON DIMENSIONAL REQUIREMENTS

- (1) or 35 ft
- (2) where backing up to another corner lot
- (3) 10 ft for buildings over one story
- (4) and at least 3,250 sf per dwelling unit
- (5) the smaller of the two measurements is the minimum setback
- (6) or 50 ft, including parking areas, if lot backs up to SF-2 or a more restrictive condition
- (7) if fronting a public street
- (8) if the home is on a lot line
- (9) if abutting a public street
- (10) or 3 times the area of the home, where the larger value is the minimum
- (11) or 20 ft
- (12) if adjoining a residential district
- (13) for single family attached units
- (14) from side street
- (15) combined side yard setback for both attached units
- (16) with additional 200 sf for all additional bedrooms
- (17) 20 ft for all other conditions
- (18) or 10 ft if fronting an internal or private street
- (19) or 10 ft if abutting an internal or private street
- (20) if centered within lot
- (21) intentionally deleted
- (22) park
- (23) subdivision
- (24) except by SUP
  
- (25) Side yard setback is 15 feet for end units that are corner lots located at the intersection of two public streets and 7 ½ feet for end units that are not located at the intersection of two public streets.
- (26) Setbacks are applicable to yard conditions where there is not a shared wall with a neighboring unit. Where there is a shared wall, the minimum required setback is 0 feet.