

Smithville

Short-Term Rental Administration



A V E N U

INSIGHTS & ANALYTICS

Introducing Avenu Insight's Dedicated Team For *Smithville*



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Avenu



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The Impacts of Short-Term Rentals

Some of the impacts that STRs are having on Communities

- Noise and Public Safety
- Ordinance Compliance (occupancy & density)
- Heavy Traffic, Trash & Parking Complaints
- Offensive language & behavior
- Damage to neighboring properties
- Historical and Cultural impact
- Impact on Affordable Housing
- **Drain on Community Services & Resources**



Short-Term Rental Demand On the Rise

The combination of **rising rates** and **record demand** has fueled the growth of the STR market to over an **\$83 billion industry** and growing.



1,530%

Growth in STR market since 2011. Expected listing growth in 2022 to be 20.5%




24.7%

Average Daily Rates grew to over \$243/night since 2020

125+

Web platforms make it nearly impossible for government leaders to monitor listings and maintain compliance



239%

Increase in STR related complaints across 2021

27

Global markets have seen home rentals outperform hotels since 2020

Takeaway: Many communities are struggling to define and enforce regulations that preserve community culture and keep citizens safe while maximizing revenue compliance.



About Avenu

Avenu serves your entire community

- More than 40 years serving state & local governments nationwide in North America
- More than 2,700 state and local customers nationally across 50 states
- 700 + employees across the U.S.
- Scalable & Flexible implementation of more than 400 Tax Administration clients
- Avenu is the leading provider of integrated **revenue administration**, managed services and **revenue enhancement / recovery solutions** to governments across the U.S. and 3 countries



“Recognition for being focused on, making a difference in, and selling to local & state governmental agencies across the United States”



● Avenu Office Locations

● Avenu Customer Locations

Avenu Supports Every Tax Category

Every compliance issue adds to a growing gap in your community's resources.



Alcohol
Tax



Beer &
Wine Tax



Business
License



Business
Tax



Emergency
Medical Services



Fire
Dues



Franchise
Fee Tax



Gasoline
Tax



Insurance
Premium Tax



Hotel/Motel
Tax



Occupational
License Tax



Property
Tax



Rental &
Lease Tax



Sales &
Use Tax



Severance
Tax



Short Term
Rental Tax



Sugary
Sweetened
Beverage Tax



Tobacco
Tax



Utility
User Tax



Waste

COMPLIANCE FRAMEWORK



Data that Matters

STR Heat Map for *Smithville*

Dashboard Overview

43

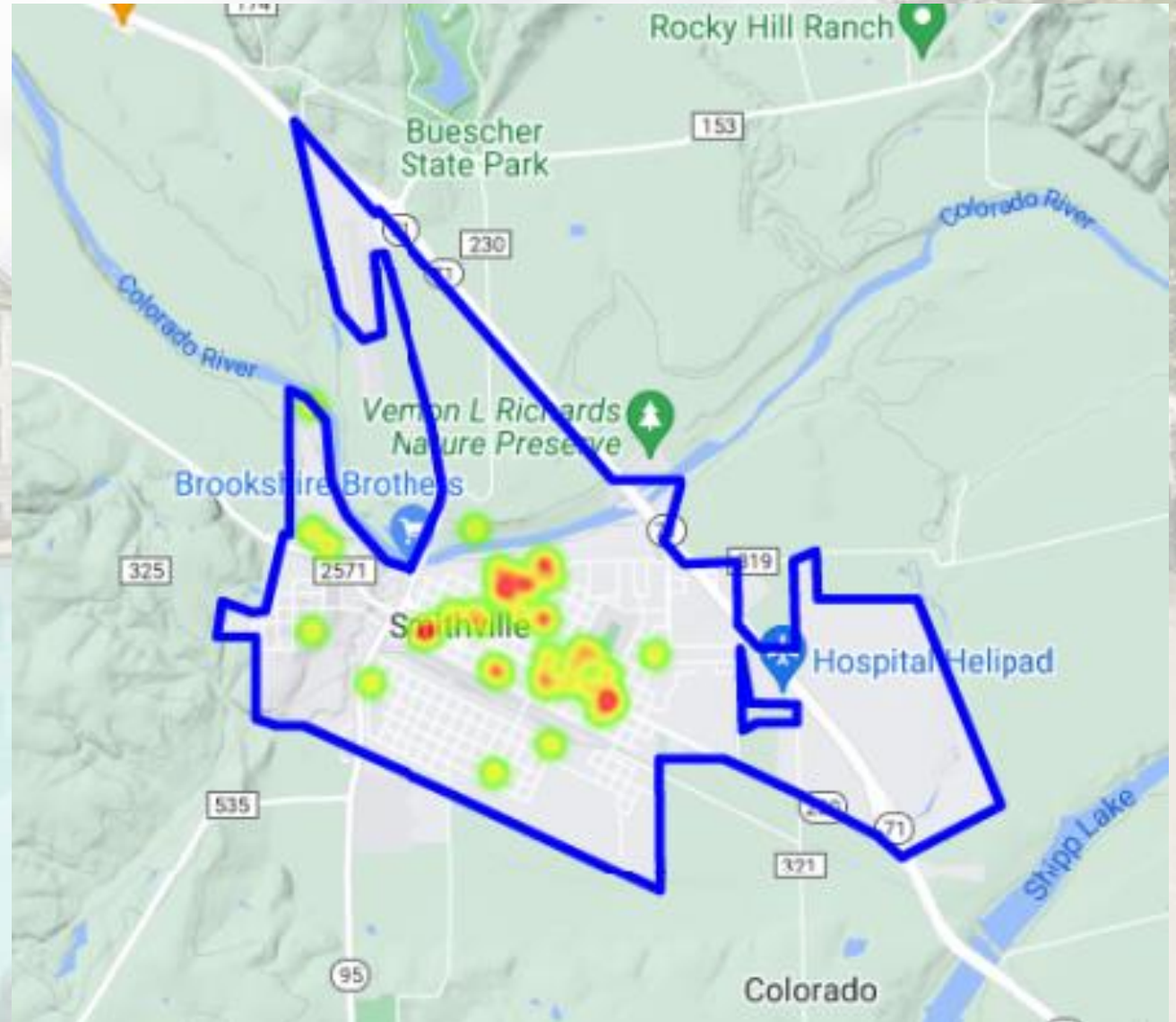
STR active and intermittent listings

\$204.71

Average Nightly Rate

**\$104K-
\$157K**

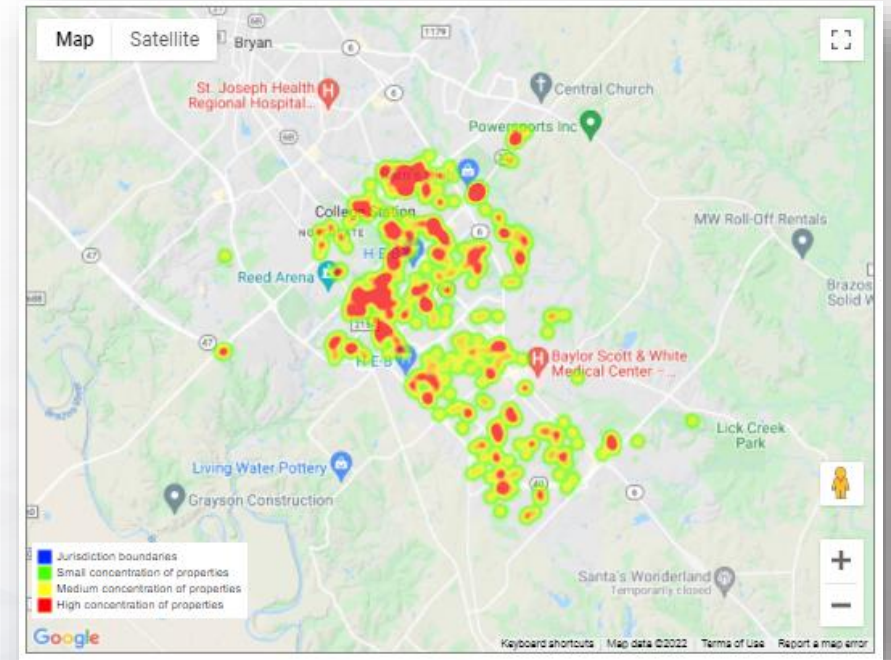
Estimated Annual Revenue (at 50%-
75% occupancy range)



Case Study – City of College Station, Texas

CHALLENGE

- Rapid rise in tourism 2018-2021 (over 12%)
- Gap in Hotel Occupancy Tax Revenue due to increase in unlicensed STR operators
- Manual process of STR identification and monitoring
 - Labor intensive and time consuming for staff (est. 20-25 hours per week)
- Established Short-Term Rental Ordinance (Oct. 2020)



SOLUTION

400+
Identified non-licensed STRs in first 4mo

145
Newly licensed STRs

Letters, notification, and confirmation of newly identified STRS

\$100K+
Newfound Occupancy Tax Revenue

Creation of a "level playing field" for all Hotel and STR operators.



Compliance & Monitoring

Short Term Rental: Best in Class Monitoring



Best in class system
that continually monitors
80+ websites for
STR listings



Currently manage
120,000+ STR
listings (Over 60
Cites/Countries)



Positive Experience for Citizens

24/7 Hotline makes it easier for neighbors to report, substantiate & resolve non-emergency STR incidents in real-time



REPORT

Concerned neighbor calls 24/7 short-term rental hotline or reports incident online

PROOF

Complainant provides info on alleged incident and is asked to submit photos, videos or other proof of the alleged violation

RESOLUTION

If property is registered, Avenu STR Team immediately calls and texts emergency contact to seek acknowledgment & resolution

COMPLETE

Problem solved-complaints & resolution notes saved in database so serial offenders can be held accountable

Education & Accountability

- Educate STR operators of compliance & regulation requirements
- Provide technical analysis review of ordinance(s) to maximize **the City of Smithville's** goals
- Deploy a citizen tip line and online tip (complaint) form for reporting of non-compliant STRs
- Proactively outreach to real estate purchasers and developers about STR obligations; building sustainable commitment
- Provide industry best practices; ie require permit/business license # to be displayed on STR listings to easily filter out licensed and compliant online advertising
- On-going collaboration with the Avenu network to seek out and contribute to innovation and progress in serving your community





Full-Service Administration & Support

Full-Service Administration

Your Funds are Secure, Timely and Accurate

Taxpayer Communication



- Set up Taxpayer Account
- Customize Tax filing Profile
- Notification of Tax Requirements
- Provide Taxpayer Assistance

Forms & Payment Processing



- Online Filing & Payments
- Data Input & Capture
- Scan & Deposit Checks
- Apply to Taxpayer Accounts

Reconciliation



- Verify Accuracy and Reconcile Payments
- Funds Distributed 12-15 times per month
- SSAE 18-SOC 2

Compliance



- Calculate & apply any unpaid penalties or interest due
- Invoice late/under-pay taxpayers
- Notify non-payers
- Aging process & reports
- Telephone outreach

Government Services Portal



- Interactive & Online
- Detailed payment listing
- Reconciliation reports
- Delinquency reports
- Analytical & planning reports

Administration Benefits

Positive Experience for STR Operators

TAXPAYER CONVENIENCE

- Online filing 24/7
- Pay for multiple locations/
businesses
- Multiple payment options
- Receive tax forms online
- Auto reminders



TAXPAYER SUPPORT

- Live Taxpayer Support M-F
9:30 am- 7:00 pm
- Easy to follow Instructions
- Registration assistance
- Online FAQs



REDUCED TAXPAYER ERROR

- Customized tax packets
- Easy-to-follow instructions
- Online payment options
- Quarterly newsletters



The background features a complex geometric design. The top half has a blue-to-white gradient. The bottom half is a light gray area with a low-poly, triangular pattern. A large, semi-transparent red triangle is positioned on the left side, pointing towards the center. The text is centered in the lower half of the image.

Audit, Discovery & Recovery

Auditing

Finding inaccuracies, inadvertent irregularities, or potential fraudulent reporting practices through taxpayer examinations



Inventory

Inventory reviewed by Certified Revenue Examiners, CPAs, & Revenue Analysts



Analysis

Determine which businesses should be audited or lettered and contacted



Examine & Verify

Cross examine books and records of active business to ensure correct tax rate is applied



Compliance & Discovery Report

Provide detailed findings of inaccurate tax remittance



Education & Outreach

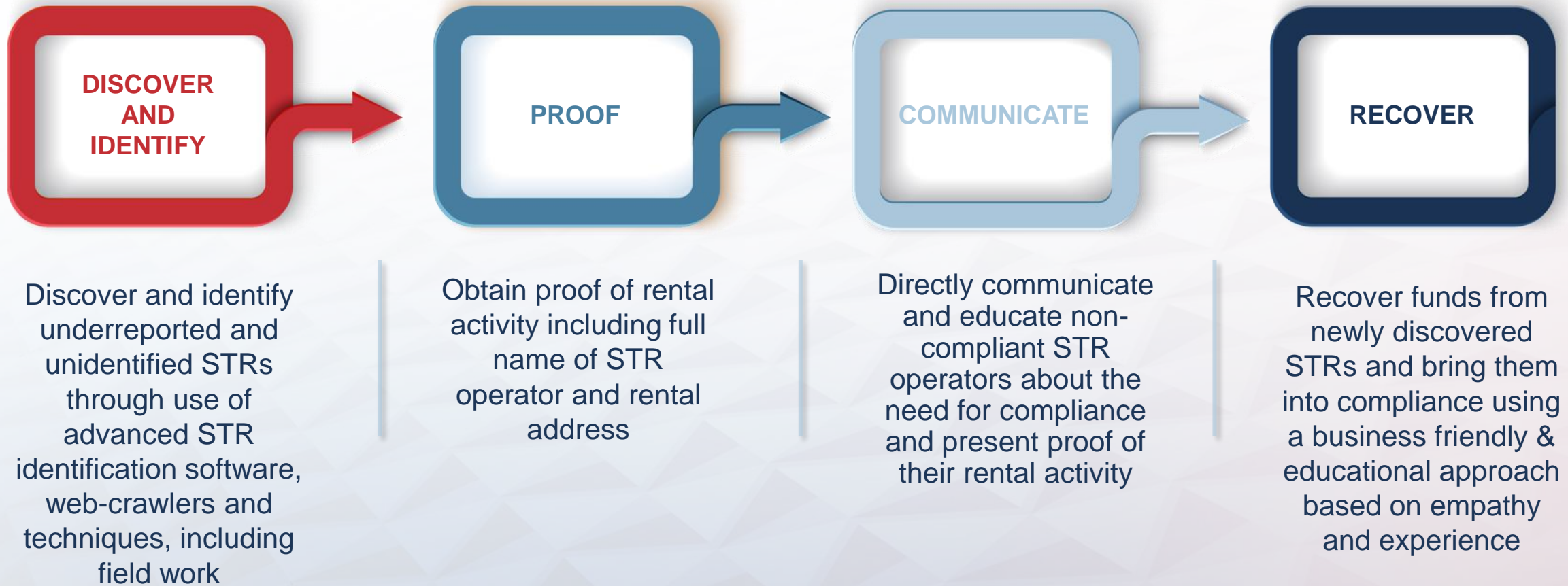
Communicate and educate non-compliant operators

Present proof of tax requirements



Benefit: Increased revenue while ensuring a level playing field for businesses

Discovery & Recovery of Non-Registered STRs





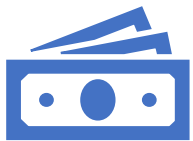
Reporting & Analytics

Reporting

PRESENTING THE RIGHT DATA IN A MEANINGFUL WAY

Exportable Online Reports available from Government Service Center

- New Account Listing
- Detailed Payment History
- Top Remitters
- Dashboard Report
- History & Trends
- Delinquency
- Transfer & Distribution
- Daily, Weekly & Monthly Reconciliation
- Forecasting



Complete insight into full tax base



Breakdown tax composition changes & performance



Generate charts, graphs & reports with real-time data



Informed decision making through forecasting



Benefit: Data utilized and presented for transparency, accountability, analysis & budgeting purposes

Sample Reports

Report Menu > Taxpayer Search > Taxpayer Payments

Date Range Type: Transfer Date Start Date: 2/1/2018 View Report

EndDate: 2/7/2019 Beginning Period Month: Not Required

Beginning Period Year: Not Required Ending Period Month: Not Required

Ending Period Year: Not Required Print Type: Print Ungrouped Parent/Child

TaxType: Lodging Tax, Counts TaxPayer Account: 431729

Type Of Revenue: Audit & Admin Revenue

1 of 1 100% Find | Next



Revenue Payments

Tax Type	Rate Code	Rate Code Descriptor	Period	Taxable Base	Gross Tax	Discount Penalty	Net Tax Paid
Counts	Room Count	Standard Rate	3-2018	\$0.00	\$0.00	\$0.00	\$0.00
Counts	#Rented	Standard Rate	3-2018	\$0.00	\$0.00	\$0.00	\$0.00
Lodging Tax	General	Standard Rate	3-2018	\$0.00	\$0.00	\$0.00	\$0.00
Lodging Tax	General	Standard Rate	6-2018	\$2,800.00	\$196.00	\$0.00	\$196.00
Counts	#Rented	Standard Rate	6-2018	\$0.00	\$14.00	\$0.00	\$0.00
Counts	Room Count	Standard Rate	6-2018	\$0.00	\$91.00	\$0.00	\$0.00
Lodging Tax	General	Standard Rate	9-2018	\$4,890.00	\$342.30	\$0.00	\$342.50
Counts	#Rented	Standard Rate	9-2018	\$0.00	\$24.00	\$0.00	\$0.00
Counts	Room Count	Standard Rate	9-2018	\$0.00	\$92.00	\$0.00	\$0.00
Total				\$7,690.00	\$759.30	\$0.00	\$538.50

- Taxpayer Payments
- Reconciliation
- Detailed Payment Listing

Report Menu > Reconciliation Summary

Date Range Type: Transfer Date Start Date: 7/1/2017

End Date: 7/31/2017 Print Type: Print Ungrouped Parent/Child

1 of 1 100% Find | Next

Tax Type	Jurisdiction Taxes Collected	Jurisdiction Admin Fees	Jurisdiction Audit Fees	Jurisdiction Net Funds	Your % of Net Funds	Distributed Funds
Lodging	270,387.60	788.00	0.00	269,599.60	100.0000%	269,599.80
Rental	637,808.00	20,401.20	0.00	617,406.80	100.0000%	617,407.80
Gas	496,486.20	825.20	0.00	495,661.00	100.0000%	495,661.20
Tobacco	399,820.60	562.60	0.00	399,258.00	100.0000%	399,258.20
Audit-license	21,099.80	0.00	0.00	21,099.80	100.0000%	21,099.80
Audit Sales Tax	391,130.20	0.00	0.00	391,130.20	100.0000%	391,130.20
Audit Use Tax	81,734.40	0.00	0.00	81,734.40	100.0000%	81,734.40
Audit Rental	2,519.80	0.00	0.00	2,519.80	100.0000%	2,519.80
Litigation	922.60	0.00	0.00	922.60	100.0000%	922.60
Final Assessment	10,225.20	0.00	0.00	10,225.20	100.0000%	10,225.20
Prom. Payment	23,133.60	0.00	0.00	23,133.60	100.0000%	23,133.60
Total from 7/1/2017 to 7/31/2017	\$2,335,268.00	\$22,577.00	\$0.00	\$2,312,691.00		\$2,312,692.60

Report Menu > Detail Payment Listing

Date Range Type: Transfer Date End Date: 7/31/2017

Beginning Period Year: Not Required Ending Period Month: Not Required

Ending Period Year: Not Required Print Type: Print Ungrouped Parent/Child

TaxType: All Type Of Revenue: Audit & Admin Revenue


Taxpayer Account	Taxpayer Name	Rate Code	Period	Taxable Sales	Gross Tax	Discount/Penalty	Net Tax Due
Sales Tax							
934872	Adewistor Group	General	05-2017	19,358.80	580.80	27.60	553.20
934872	Adewistor Group	General	06-2017	251,139.00	7,534.20	203.60	7,330.60
929681	Dopex Company	General	06-2017	11,510.20	460.40	8.80	451.60
934937	Dopistor	Agriculture	06-2017	0.00	0.00	0.00	0.00
934937	Dopistor	Mfg. Machine	06-2017	0.00	0.00	0.00	0.00
935210	Endantor	General	05-2017	10,122.00	303.60	14.40	289.20
935210	Endantor	General	06-2017	8,876.00	266.20	12.60	253.60
934758	Endewax WorldWide	General	06-2017	3,061.80	122.40	0.00	122.40
934758	Endewax WorldWide	General	05-2017	6,169.80	246.80	4.80	242.00
935202	Endonar International Group	General	06-2017	9,639.00	385.60	7.40	378.20
935206	Endor Holdings	General	06-2017	98,711.80	3,948.40	75.20	3,873.20
935206	Endor Holdings	General	05-2017	101,312.00	4,052.40	77.20	3,975.20
934768	Froex	General	06-2017	26,612.20	1,064.40	20.20	1,044.20
935167	Froupower	General	06-2017	50,358.00	2,014.40	38.40	1,976.00
935039	Hapicator WorldWide Group	General	06-2017	10,862.20	434.40	8.20	426.20



Demo of STR Compliance Platform

STR Online Filing

Online Filing

[Home](#)[Lookup](#)[Support](#)[FAQ](#)

A cloud-based solution to file and remit tax returns.

Returning Users Login

Username

[Forgot UserName?](#)

Password

[Forgot Password?](#)

☐ Remember Username

Login

Business Account

For business owners or companies who need to file for a single business or a business with multiple locations.

Create a Business Account >

Tax Preparer Account

For tax preparers, CPAs and filing practitioners who manage multiple business accounts for multiple clients.

Create a Tax Preparer Account >

Online Filing

PROPERTY INVENTORY

Short Term Rental Permit

Show Properties:

☒ Active (9)

☐ Inactive (0)

☐ On This Application (0)

Add New Property

Active Properties

Permit #	Property Name / Unit #	Operator Name	Renewal Date	Actions		
2016-201125	BAHIA MAR CONDOS 5, BLDG 3B, 146B	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	7/28/2017	Renew Permit	Clone	Make Inactive
2015-892947	GALLEON BAY CONDOS, 202	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-085717	GALLEON BAY CONDOS, 405	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-735434	GALLEON BAY CONDOS, 406	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-019102	GRAN ACQUA DOLCE CONDOMINIUMS, 2	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2018-328125	LANDFALL TOWER CONDOS, 76	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-507439	OCEAN VIEW CONDOMINIUMS, 201 (DOOR 2)	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-331049	PADRE BEACH SEC XI,	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
2015-335397	PADRE BEACH SECTION I,	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	8/16/2019	Renew Permit	Clone	Make Inactive
Renew All (Skip Edit / Review)						

Back

Save and Continue Later

Next

Owner (Business)
with 9 properties
ready to renew
their permits

Online Filing

Short Term Rental Permit

Show Properties:

☐ Active (9)

☐ Inactive (0)

☒ On This Application (2)

Add New Property

Properties on this application

Permit #	Property Name / Unit #	Operator Name	Status	Fee	Actions		
2016-201125	BAHIA MAR CONDOS 5, BLDG 3B, 146B	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	OK	\$0.00	Edit	Remove	Clone
NEW	BAHIA MAR CONDOS 5, BLDG 3B, 146Z	SOUTH PADRE BEACH HOUSES AND CONDOS, INC. (MIKE BRENNAN)	OK	\$50.00	Edit	Remove	Clone

Remove All

Back

Save and Continue Later

Next

Example of one new & one renewal
(where they do not charge a renewal fee)

Online Filing

"LODGING TAX FORM"

- Add Gross Receipts and any exemptions
- Calculate the Taxes, Discounts, Penalties and/or Interest

1.	Gross Room Receipts (Before Exemptions)	25000.00
2a.	Exemption: Contracted to use room for 30 Consecutive Days	0.00
2b.	Exemption: U.S. employee or U.S. military	0.00
2c.	Exemption: Foreign diplomatic personnel	0.00
2d.	Total Exemptions	0.00
3.	Taxable Room Receipts (Line 1 minus 2d)	25000.00
4a.	Tax Rate: City of South Padre Island Hotel Occupancy Tax	8.50 %
5a.	Tax Due	2125.00
6a.	Discount (1% of Tax Due allowed if timely filed and paid.)	21.25
7a.	Penalty	0.00
8a.	Interest	0.00
9a.	Total: City of South Padre Island Hotel Occupancy Tax	2103.75
4b.	Tax Rate: City of South Padre Island Venue Tax	2.00 %
5b.	Tax Due	500.00
6b.	Discount (1% of Tax Due allowed if timely filed and paid.)	5.00
7b.	Penalty	0.00
8b.	Interest	0.00
9b.	Total: City of South Padre Island Venue Tax	495.00
4c.	Tax Rate: Cameron County Venue Tax	0.50 %
5c.	Tax Due	125.00
6c.	Penalty	0.00
7c.	Interest	0.00
8c.	Total: Cameron County Venue Tax	125.00
10.	Total Net Amount Due	2723.75
A.	Total # of Room Nights Available	0
B.	Actual Room Nights Rented	0

DELETE SAVE

Lodging Tax Form

Benefits of partnering with Avenu

- Ability to provide **full-service administration** with taxpayer support line of trained staff that provides immediate answers questions from STR operators
- Discovery & Recovery of **newfound revenue** through advanced STR identification and collection software
- **24/7 Hotline & Portal** available for constituents to log complaints and be heard by trained staff when occurrences happen the most often during evenings and weekends
- **Data** helps you better understand the STR impact to your country



Upfront
Supporting
Evidence



Trained Staff
No Outsourcing
No Offshoring



80 + Websites
Coverage



Quality
Control



Easy Edit/
Update
Features



No Long-Term
Contracts with
No Outs

Clearview Short-Term Rental Packages

Monitoring & Compliance



Monitoring & Identification

Discover and identify existing and unknown STRs through use of advanced self-service STR identification software that analyzes 80+ sites.

Registration & Compliance

Assistance to local staff to identify inaccuracies or potential fraudulent reporting practices

24x7 Hotline

Easy to report, prove, and resolve non-emergency short-term rental related problems in real-time, any day, at any hour.

Tax Payment Portal

Online property owner/manager task portal for new and renewal licensing

Full-Service



Everything in STR Monitoring & Compliance, PLUS:

Advanced Tax Portal

Full-Service Custom Portal for Tax Registration & Remittance

Permitting

Adoption and application of a formal annual permitting requirement

Tax Collection & Remittance

Receive, post and reconcile ALL STR filings and fee payments

Discovery & Recovery – Occupancy Tax

Recover funds from newly discovered STRs and bring them into full compliance

Community Outreach

Directly communicate with noncompliant STR operators about need for compliance and present proof of their rental activity

Reporting

Powerful one-click reporting tools that enable a jurisdiction to analyze the financial trends and patterns of the local STR market and lodging tax revenue

Optional Services

Add-On



Requires Monitoring & Compliance Package: (On-Demand)

Compliance Auditing – Percentage of Properties

On-site examinations by searching for financial or management inaccuracies, inadvertent irregularities, or potential fraudulent reporting practices

Discovery & Recovery – Property Tax

Recover funds from newly discovered STRs and bring them into full compliance

Ordinance Review & Consulting

Annual comprehensive ordinance review and on-demand consulting

Homestead/Primary Residence Verification

Annual verification of homestead exemptions – qualified and unqualified, claimed and unclaimed – within identified STR community

Pricing Overview (Clearview STR)

OPTION 1: Monitoring & Compliance

Smithville TX

Estimated STR Count: 43 (Estimate)

- 1. Monitoring & Identification
- 2. Registration & Compliance
- 3. 24x7 Hotline
- 4. Tax Portal

Per Property Fee	\$60
Annual Monitoring & Compliance	\$5,000 up to 60 properties
One-Time Setup Fee	\$5,000 <u>\$2,000</u>
Optional Svc: Compliance Auditing	
Optional Svc: Discovery/Recovery	
Estimated Annual Total – 1st Year	\$7,000

OPTION 2: Full-Service: Everything in Monitoring & Compliance Option, PLUS

Smithville TX

Estimated STR Count: 43 (Estimate)

EXTRA BENEFITS of Full-Service:

- 1. Advanced Tax Portal
- 2. Permitting
- 3. Tax Collection & Remittance
- 4. Discovery & Recovery
- 5. Community Outreach
- 6. Reporting
- 7. Compliance Auditing – 5% of Properties

Per Property Fee	\$255
Annual Full-Service Admin	\$15,000 up to 60 properties
Recovery & Collections (Contingency, Minimums)	45%
One-Time Setup Fee	\$5,000 <u>\$2,000</u>
Optional: Ordinance Consulting	
Optional: Homestead Verification	
Estimated Annual Total – 1st Year	\$17,000

Questions?



CITY OF SMITHVILLE
SUBDIVISION ORDINANCE
REVISIONS

General Overview

City staff has requested the revision of the City of Smithville Subdivision Ordinance, currently codified as Exhibit A, Chapter 10, Code of Ordinances, City of Smithville, in its entirety in order to increase usefulness, update procedures to comply with current legislation, and adopt procedures that promote the health safety and welfare of the City. A summary of the proposed changes are as follows:

1. Changed numbering scheme to match the formatting of the rest of the Code of Ordinances

2. Reorganized for easier use.

Art. 10.01 – General

Art. 10.02 – Procedure

Art. 10.03 – Plans and Plats

Art. 10.04 – Subdivision Design

Art. 10.05 – Utilities

Art. 10.06 – Construction

Art. 10.07 – Variances

3. Added additional plat types – development plats, conveyance plats, and replats/amendments.

4. Clarify terms and ensure consistency.

5. Add parkland dedication and tree preservation

6. Require traffic impact analysis to determine impact on traffic and optimal size and configuration of streets.

Procedural Revisions

Generally designed to accommodate “shot clock” under 2019 legislation.

Mandatory administrative completeness review.

30 days for action by P&Z and another 30 for action by Council

Permitted actions – approval, approval with conditions, disapproval.

Action Response – Applicant must submit response to body that denied or approved with conditions

Notices – Generally not required by TLGC, Ch. 212, but Code includes them.



Revisions - Plats

Original

Conceptual plans, preliminary and final plats, and minor plats

Final plats – recorded by developer after approval

Revised

Additional information required – TIA, tree surveys, utility certification, etc.

Only recorded after construction completed or bond provided

New plat types

Development plat – Used to plat and obtain right of way, utility easements, etc. for tracts that don't need to be subdivided before they are developed. (10.03.005)

Conveyance plat – Optional. 5-acre minimum size. Allows subdivision for conveyance purposes only and for remainder tracts out of larger subdivisions. No development allowed until final/development plat. (10.02.006)

Vacating plats – Replaces Replatting section. (10.02.007)

Replatting without vacating – Statutory (10.02.008)

Amending plat – Mainly used to split lots (6 or fewer new lots) or combine lots. (10.02.009)

New Requirements

Traffic Impact Analysis – Required for most platting functions. Ensures that streets, etc. will be sufficient for planned projects and may require developer mitigation. (10.04.007)

Tree permit/survey – Ensures protection of trees meeting certain criteria (over 6” in diameter, species, etc. – not cedar or mesquite) (10.04.011)

Parkland dedication – Land must be dedicated or fee in lieu (10.04.010)

Other changes

Variances – simplified standards. (10.07.002)

Block dimensions – clarified standards e.g. width = side abutting ROW with smallest dimensions. No more “unusual case” standard. “Unusual cases” will go through variance process.

Discretionary Standards

Highlighted in draft ordinance.

Block dimensions (10.04.003)

Street category thresholds (10.04.006)

Monuments - necessary? (10.04.009)

Parkland dedication – how much? Criteria? (10.05.010)

Notices – Generally not required. Should we keep? (10.07.001)

HB 3699

Waiting for Governor's Signature. Effective Sept. 1.

“The governing body of a municipality or the municipal authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly allowed by state law.”

Waiting for guidance from TCAA

CODE OF ORDINANCES, CITY OF SMITHVILLE, TEXAS
CHAPTER 10 SUBDIVISIONS

ARTICLE 10.01 GENERAL PROVISIONS

Sec. 10.01.001 Purpose

This ordinance is enacted by the City of Smithville for the following purposes:

- (a) To implement the City of Smithville Comprehensive Plan through the regulation of subdivision development;
- (b) To provide for the orderly development of the city and its extraterritorial jurisdiction;
- (c) To ensure adequate provision for streets, alleys, parks, water and wastewater lines, storm drainage, and other facilities indispensable to the community;
- (d) To ensure adequate fire protection and adequate access and egress for fire and other emergency services;
- (e) To ensure access to adequate amounts of light and air; and
- (f) To ensure the overall health, safety, and general welfare of the community.

Sec. 10.01.002 Authority

This Chapter 10 is adopted pursuant to Chapter 212, Texas Local Government Code, the authority granted to the city under the Constitution of the State of Texas, other applicable chapters of the City of Smithville Code of Ordinances, and any other authority provided by law, as such laws, statutes, and authorities may be amended from time to time.

Sec. 10.01.003 Applicability

- (a) The terms of this Chapter 10 apply within the city limits of the City of Smithville. The terms of this Chapter 10 apply within the extraterritorial jurisdiction of the city subject to the terms of any agreement entered between the City of Smithville and Bastrop County pursuant to Texas Local Government Code § 242.001.
- (b) The owner of any tract of land that develops land or who divides any tract in two or more parts: (1) to lay out a subdivision of the tract, including an addition to the city; (2) to lay

out suburban, building, or other lots; or (3) and to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner to be dedicated to public use must have a plat of the subdivision prepared that complies with the with the terms of this Chapter 10.

- (c) A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey, or by using any other method.
- (d) A division of land under this Chapter 10 does not include a division of land into parts that are greater than five acres, where each part has access to a public street and no public improvement is being dedicated.

Sec. 10.01.004 Permits; Utilities

- (a) No building permit or certificate of occupancy shall be issued for any parcel of land until a plat has been recorded in accordance with this chapter and all other requirements of the Code have been met; and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this section.
- (b) The City of Smithville and any other utility may not serve or connect any land with water, sewerage, or electric service until a plat has been recorded in accordance with this chapter and all other requirements of the City of Smithville Code of Ordinances have been met.

Sec. 10.01.005 Violation; Civil Enforcement

- (a) It is a violation of this chapter and it is unlawful and a misdemeanor for any person to fail, or cause another person to fail, to comply with the terms of this Chapter or to take an action, or cause another person to take an action, in violation of the terms of this Chapter. Each day that a violation continues constitutes a separate offense.
- (b) The city may collect a civil penalty for each violation of the terms of this chapter as authorized by Chapter 54, Texas Local Government Code. In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty of \$1,000 a day if it proves that:
 - (1) the defendant was actually notified of the provisions of the ordinance; and
 - (2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

- (c) Filing of a criminal case in municipal court to enforce the terms of this Chapter or filing suit to collect a civil penalty does not constitute an election of remedies or otherwise preclude the city from pursuing all available remedies at law or in equity.

Sec. 10.01.006 Definitions

- (a) Interpretation. Words, phrases, and terms not defined in this chapter have their usual and customary meanings except where the context clearly indicates a different meaning. The text of this chapter controls over captions, titles, and maps. The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory. As the context requires, words used in the singular include the plural, words used in the plural include the singular, and words used in any tense include any other tense. All references to manuals, codes, ordinances, laws, rules, regulations, or other standards are to the most current versions of same, including all amendments and updates, at the time any submittal is made, unless otherwise provided or required by law. All references to particular terms within the referenced manuals, codes, ordinances, laws, rules, regulations, or other standards includes the functional equivalent of such terms as the same may be amended, recodified, or otherwise modified from time to time.

- (b) Defined terms. The following words, phrases, and terms, have that meaning ascribed to them below:

ACTION RESPONSE - A response to a plan or plat that has been approved with conditions or disapproved filed pursuant to Texas Local Government Code § 212.0093.

ALLEY - A minor public right-of-way not intended to provide the primary means of access to the abutting lots, which is used for vehicular service access to the back or sides of properties otherwise abutting on a public street.

BASE FLOOD ELEVATION (BFE) - The computed elevation that indicates the water surface elevation resulting from flood that has a 1% chance of equaling or exceeding that level in any given year shown on the then-current city-adopted hydraulic analysis for zones A, AE, AH, AI-A30, AR, V1-V30, or VE, provided that, if there is no then-current city adopted hydraulic analysis pertaining to the affected property, then the BFE is that computed elevation shown on either the applicable flood insurance rate map (FIRM) or established by a flood insurance study (FIS) for the area, whichever is based on the most recent data.

CITY MANAGER - The city manager or the designee of the city manager.

CODE - The Code of Ordinances, of Smithville, Texas.

DEDICATE - To transfer property or interests in property from private to public ownership.

DEDICATION - The transfer of property from private to public ownership.

DESIGN MANUAL – Any manual or other document adopted by the City of Smithville regulating a specific aspect of development or subdivision, such as a drainage manual or road construction manual.

DEVELOPER - An individual, firm, partnership, joint venture, corporation, or other legal entity, or their agent, undertaking the division or improvement of land and other activities covered by this Code, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The term “developer” includes the term “subdivider,” even though the individuals or entities in successive stages of a development project may vary.

DEVELOPMENT - The initiation or conduct of any activities related to the platting of land or construction of buildings or structures; the construction of impervious surfaces; the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, clearing, filling, or removal of soil; also the land, structures and improvements resulting from or subject to development.

DEVELOPMENT PLAT - A development plat required under Subchapter B, Chapter 212, Texas Local Government Code, as the same may be amended from time to time, and Section 10.02.006, below.

EQUIVALENT DWELLING UNIT (EDU) - A measure of utility services required to serve a property that is approximately equal to the services required to serve a typical single-family residence. Also, the population equivalent that is approximately equal to a typical single-family residence. For the purposes of this ordinance, an EDU shall have a population equivalent of 2.75 persons, a water service equivalent of 300 gallons per day average demand, and a sewer service equivalent of 225 gallons per day average flow.

EXTRATERRITORIAL JURISDICTION (ETJ) - that area outside the city limits as determined under Chapter 42, Texas Local Government Code.

FILL - A deposit of material for the purpose of creating a more level building area.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

IMPERVIOUS SURFACE - Any structure, surface, or improvement that reduces or prevents the infiltration of water into soil or bedrock, such roads, rooftops, sidewalks, and parking lots.

IMPROVEMENT - Any manmade alteration of land, a lot, a building, structure, infrastructure, or facility, owned publicly or privately.

LOT - An undivided tract or parcel of land having frontage on a public or private street and which is designated as a distinct and separate tract or which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

PAVEMENT WIDTH - The portion of a street available for vehicular traffic.

PERSON – Any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity

PLANNING AND ZONING COMMISSION - Planning and Zoning Commission of the City of Smithville.

PLAT – A map, drawing, or plan identifying a layout of a subdivision; also the act of mapping or charting the subdivision. The term includes, but is not limited to, a preliminary plat, general plan, final plat, development plat, and replat.

REDEVELOPMENT - The construction of structures or improvements on areas which previously contained structures or improvements.

RETAINING WALL - A wall that is designed to resist lateral earth pressures.

RIGHT OF WAY – Land dedicated to public use for streets, roads, and drainageways.

STREET OR ROAD - A public or private thoroughfare which provides vehicular access to adjacent land.

SUBDIVIDER - an individual, firm, partnership, joint venture, corporation, or other entity, that is the owner, or equitable owner, of land, or such owner's agent, that divides or proposes to divide or develop land so as to constitute a subdivision. The term "subdivider" includes the term "developer," even though the individuals or entities in successive stages of a development project may vary.

SUBDIVISION - a division of any lot, tract or parcel of land into two or more parts, the assembly of two or more tracts of land into one tract or lot, or the filing of a development plat and the resulting land that is included in such development plat; also the resulting lots, tracts, and parcels resulting from or subject to such subdivision. For a development with multiple plats, such as a phased development with a conceptual plan, each plat represents a single subdivision.

SUBDIVISION ORDINANCE - this Chapter 10 of the Code of Ordinances, City of Smithville, Texas.

SURVEYOR - a Registered Professional Land Surveyor as authorized by the relevant state statutes to practice the profession of surveying.

TCEQ - The Texas Commission on Environmental Quality with the authority granted by the Texas Legislature to establish and enforce regulations codified in Title 30 of the Texas Administrative Code.

TIA – Traffic impact analysis performed in conformance with this chapter.

TXDOT – Texas Department of Transportation.

UTILITY EASEMENT - easement dedicated for the installation and maintenance of utilities and all the necessary appurtenances thereto installed above, on, or below the surface of the ground.

ARTICLE 10.02 PROCEDURE

Sec. 10.02.001 Administrative Review

- (a) Pre-application conference. Before an application under this chapter is submitted to the city manager for administrative review, the developer may request a pre-application conference with city staff to provide city staff with general information about the proposed subdivision and to allow city staff to advise the developer of the process that must be followed, the requirements that must be met, and any special considerations that must be given.
- (b) Fees. Review fees will be determined by the city manager and are payable at the time of filing. No application under this Chapter 10 is administratively complete unless and until the applicable fees have been paid.
- (c) Review for Administrative Completeness. Before any application for a plat, plan, action response, or other approval under this chapter maybe filed, the subdivider must schedule an appointment for administrative review with the city manager. At such appointment, the city manager will review application for administrative completeness. If the city manager determines that the application is administratively complete, then the city manager shall endorse such application as administratively complete and shall file the application with the planning and zoning commission by filing such application with the city secretary. A subdivider may not file any application that is not administratively complete as reasonably determined by the city manager. All applications under this chapter must be on a form approved by the city and contain all required information prepared in accordance with the terms of this chapter. If the city manager determines that an application is not administratively complete, then the applicant must address all deficiencies identified and schedule another appointment for administrative review to determine whether the updated application is administratively complete.

The following schedule applies to the appointment for administrative review:

- (1) Initial application – Between 30 and 20 days before the soonest meeting of the planning and zoning commission for applications that require approval of the planning and zoning commission.
- (2) Action response – Between 15 and 10 days before the soonest meeting of the planning and zoning commission or city council, as applicable.

- (d) Administrative Completeness. An application is only administratively complete if it includes all information required by this chapter provided in the manner required by this chapter and all fees have been paid.
- (e) Expiration. Pursuant to Texas Local Government Code § 245.002(e), an application under this chapter expires on the 45th day after the date the application is submitted if:
 - (1) the applicant fails to provide documents or other information necessary to comply with the requirements under this chapter.
 - (2) the city provides the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
 - (3) the applicant fails to provide the specified documents or other information within the time provided by the notice.

Sec. 10.02.002 Action by Municipal Authority

- (a) Municipal Authority for Approval.
 - (1) The planning and zoning commission is the municipal authority for approval of all plans and plats, as those terms are defined by Texas Local Government Code § 212.001. Only those plats and plans approved by planning and zoning commission will be submitted to city council for approval.
 - (2) Plans and plats approved by planning and zoning commission do not become final unless approved by the city council. If a plan or plat approved by the planning and zoning commission is not considered by the city council within 30 days of the approval by the planning and zoning commission, then the city council is deemed to have approved such plan or plat.
- (b) Actions. The planning and zoning commission and the city council may take any of the following actions regarding a plan or plat:
 - (1) Approve.
 - (2) Approve with conditions.

- (3) Disapprove.
- (4) Take no action, and such inaction constitutes a deemed approval of the plan or plat.
- (c) Action response. If the planning and zoning commission disapproves of a plan or plat or approves a plan or plat with conditions, then the action response submitted in response to such action must be submitted to the planning and zoning commission. If the city council disapproves of a plan or plat or approves a plan or plat with conditions, then the action response submitted in response to such action must be submitted to the city council.
- (d) Criteria for Approval. A plan or plat may only be approved if such plan or plat, and the associated documents, studies, and analyses:
 - (1) Meet the submittal requirements.
 - (2) Conform with the city's general plan for current and future streets, alleys, parks, playgrounds, and public facilities.
 - (3) Conform to the city's general plan for the extension of the city's roads, streets, and public highways within the city and in its ETJ, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
 - (4) Conform with all applicable city codes, including but not limited to this chapter and the city's zoning ordinance. Uses proposed in the plan or plat must comply with the applicable zoning for the property.
- (e) Certificate of Approval. Upon approval of the plat, the approved plat shall be endorsed with a certificate attested by the city secretary substantially in the form below:

I hereby certify that the above and foregoing Plat of _____ Addition to the City of Smithville was reviewed and approved by the City of Smithville on the _____ day of _____ 20__.

Presiding Officer

Attest:

City Secretary

Sec. 10.02.003 Action Response

- (a) An applicant may file an action response for any plat or plan that is approved with conditions or disapproved. No person may file an action response that has not been determined to be administratively complete by the city manager.
- (b) Any action response that materially varies from the initial plat or plan in any manner other than as required to address the items cited in the approval with conditions or disapproval is a new plat or plan and must be submitted as required for the initial review of such plat or plan, including payment of the applicable fee.
- (c) The action response must be submitted in accordance with the requirements of this code, including but not limited to the time frames set forth in Section 10.02.001.

Sec. 10.02.004 Bonding and Recordation

- (a) Unless a bond is provided, no final plat may be recorded unless and until completion and acceptance of all improvements required by this ordinance. The city will record the final plat and all other approved plats, other than preliminary plats, upon compliance with all terms of this ordinance and the payment of all recording costs by the applicant to the city.
- (b) Applicant must provide three plats with original notarized signatures for recording purposes. The plats must be printed on uncoated, acid free paper of greater than 20-lb weight. All seals must be legible and within the margins.
- (c) Upon request, applicant must provide an electronic copy of the final plat in a city approved geographic information system (GIS) compatible format, showing all plat lot lines and street right-of-way in State Plane Grid Coordinates, with lot and block numbers and street names.

Sec. 10.02.005 Expiration of Final Plat Approval

- (a) The city council may revoke its approval of a final plat if construction is not begun within two (2) years after the city council approval date rather than invoke the use of bonds or other construction financing guarantees.

- (b) If the city council revokes its approval of a final plat under this section, then:
 - (1) The city may not record the revoked final plat; provided that, if the plat has been recorded, the city may record an instrument reflecting the revocation of the plat in the Official Public Records of Bastrop County.
 - (2) Subdivision of the property subject to a revoked final plat requires a new application to be processed in accordance with this ordinance.

ARTICLE 10.03 PLANS AND PLATS

Sec. 10.03.001 Conceptual Plan

- (a) Purpose. The purpose of a conceptual plan is to regulate the phasing of final subdivision plats and the construction of required public improvements within larger, phased subdivisions.
- (b) Applicability. A developer must apply for a conceptual plan if the property will be subdivided using more than one plat.
- (c) Entire Tract. To ensure the orderly planning of streets, utilities, drainage, and other infrastructure and facilities, all land within the tract proposed for subdivision must be included in the conceptual plan.
- (d) Application Requirements. The items listed below must be submitted at the time an application for a conceptual plan is filed and such items must be prepared in accordance with the Code. The items below must be submitted in an electronic format unless stated otherwise.
 - (1) The Conceptual Plan. The conceptual plan must be submitted electronically and with 2 paper copies drawn on sheets no larger than 24 inches by 36 inches. When one or more sheet is required, a key map must be provided showing the entire development at a smaller scale than the first sheet with an index of sheets; such conceptual plan must show the following:
 - (A) Title or name of development, and the names or titles of individual subdivisions within the development, which shall not have the same spelling as, or be pronounced similar to, the name of any other existing or proposed subdivision located within Bastrop County.

- (B) The legal description of the property to be subdivided including reference to the original survey of which it is a part, the acreage of the development, the acreage of the original tract and deed references of the original tract.
- (C) Name and address of the owner(s), subdivider, and lienholder (if applicable).
- (D) Name and address of surveyor or other person responsible for the preparation of the conceptual plan.
- (E) Name and address of engineer responsible for the design of improvements necessitated by the development and required herein.
- (F) Date of preparation, north arrow, scale of plan (not to exceed one inch to 400 feet) and vicinity map identifying adjacent streets, subdivisions and other landmarks to pinpoint location.
- (G) Boundary of development indicated with heavy lines. Locations, widths, names of existing streets, lots, easements; pipelines, fee strips, survey lines, building lines, watercourses, other important features within and adjacent to the development. Use light dashed lines to indicate features not within the boundary of the development.
- (H) Boundaries of proposed final subdivision plats, proposed uses, proposed existing and proposed streets, with appropriate street classification, topography at five-foot contour intervals, drainage, and sewer service areas. Uses proposed in the conceptual plan must comply with the applicable zoning for the property subject to the conceptual plan.
- (I) Dimensions of the development and dimensions and locations of all squares, parks, or other portions of land intended to be dedicated to public use, or for the use of purchasers or owners of lots or tracts within the development. Indicate the total length of all collector streets and thoroughfares in linear feet.
- (K) City limits and limits of city's ETJ if lines cross the subdivision.
- (L) Areas within the 100-year Flood Zone taken from the latest Department of Housing and Urban Development, Federal Insurance Administration, Flood Insurance Rate Maps.

- (N) Estimate in terms of EDU's of the potential demand for water and sewer service.
 - (O) Delineation of the phases of the development and the order in which the plats for such phases will be filed.
 - (P) Phasing of public improvements and facilities required to be constructed, both on and off-site, including but not limited to roadway improvements, drainage facilities, water and wastewater facilities, and parkland.
- (2) Studies and Surveys. The application for a conceptual plan must include the following analyses and surveys prepared in accordance with requirements of this chapter:
- (A) Tree survey.
 - (B) Traffic impact analysis.
 - (D) Drainage analysis.
 - (E) Water study and water supply certification as applicable.
 - (F) Sewer study as applicable.
- (3) Public Utility Certification. Certificates from public utilities pertaining to the area within the conceptual plan indicating that service is available and the utility is willing to provide such service.
- (4) Application for Variances. All applications for variances identified at the time of submittal of the conceptual plan. Applications for variances must comply with the requirements applicable to such variance, including requirements for the submittal of paper copies, if any.
- (5) Fees. Payment of required fees.
- (e) Completeness Review. City staff will review the application for the conceptual plan for administrative completeness and provide comments concerning compliance with this ordinance. When staff finds the application is administratively complete, staff will endorse

the conceptual plan as administratively complete and will file such conceptual plan with the city secretary.

- (f) Criteria for Approval. In addition to the general criteria for approval of a plan or plat, the location, size, and sequence of phases proposed must assure the orderly and efficient development of the land subject to the conceptual plan.
- (g) Approved conceptual plan. If the planning and zoning commission and city council approve the conceptual plan, then the subdivider may submit a preliminary plat for the first phase of development and supporting documentation as provided for herein. All plats and phases of development must conform with the approved conceptual plan and any conditions required by the city council, unless amended in accordance with this Ordinance. If no variances are needed, the developer may submit an application for the initial preliminary plat at the same time as the application for a conceptual plan; provided that such preliminary plat may not be approved unless the conceptual plan is first approved.
- (h) Amendments. An approved conceptual plan may be amended with approval of the planning and zoning commission and city council in the same manner and subject to the same requirements as a conceptual plan.

Sec. 10.03.002 Preliminary Plat

- (a) Purpose. The purpose of a preliminary plat is to present a detailed layout of subdivisions, to facilitate a review by city staff, the planning and zoning commission, and city council.
- (b) Applicability. The developer must obtain the approval of a preliminary plat for all subdivisions prior to filing a final plat.
- (c) Exemptions. A preliminary plat is not required for minor plats, development plats, conveyance plats, vacating plats, replats without vacating preceding plats, or amending plats.
- (d) Application requirements. A person seeking approval of a preliminary plat must file an application in the format established by the city. The items listed below must be submitted at the time such application is filed and must conform to the regulations set forth below. The items below must be submitted in an electronic format unless stated otherwise.
 - (1) The preliminary plat prepared by a registered professional engineer, bearing the seal of such engineer, must be submitted electronically in PDF format and with 2

paper copies measuring 18" by 24" with a minimum of a 1/2-inch margin; such preliminary plat must show the following:

- (A) Title or name of the subdivision, which shall not have the same spelling as, or be pronounced similar to, the name of any existing or proposed subdivision located within Bastrop County. The subdivision name shall be located immediately above the caption where the legal description of the property is located.
- (B) The legal description of the property to be subdivided including reference to the original survey of which it is a part, the acreage of the plat, the acreage of the original tract and deed references of the original tract.
- (C) Date of preparation, north arrow, scale of the plat (not to exceed one inch to 100 feet) and vicinity map identifying adjacent streets, subdivisions and other landmarks to pinpoint the location of the subdivision.
- (D) Location of boundary lines and width and location of platted streets and alleys within, or adjacent to, the property for a distance of 500 feet; physical features of the property, including location of watercourses, ravines, bridges, culverts, present structures and other features pertinent to subdivision; and location of any existing utilities with size of sewer and water mains. The outline of wooded areas and the location of important individual trees is required. Topographical information with contour lines at two (2) foot intervals or closer shall be shown and shall be referred to city data. Such information may be presented by separate plat filed with the subdivision plat if an overlay is also provided. The acreage of the property is to be indicated.
- (E) The flow of drainage with arrows sufficient to show predicted path. An explanation and depiction shall be attached to show outflow and inflow availability on high flow areas. Adjoining property where inflow originates or outflow exists must be attached to ensure compliance with drainage or excessive run-off factors. No plat shall be considered for approval unless these drainage flows are attached.
- (F) All zoning designations applicable to the property and the boundaries of such zoning districts.

- (G) City limit line, ETJ boundary, and other political boundaries that pass through the property.
- (H) The locations, rights-of-way, widths, names, and classifications of the proposed streets, roads, alleys, and other features and their location in relation to platted streets and alleys in adjacent subdivisions shall be shown. If there are no adjacent subdivisions, then a map, which may be made on small scale, must be presented showing the outline and ownership of adjacent properties, location and distance to the nearest subdivisions, and how the streets, alleys, or highways in the subdivision offered for record may connect with those in the newest subdivisions. Proposed streets shall not be shown over lands of adjacent owners unless written agreements covering this condition are presented with the plat.
- (I) The lot depth and the lot width at the street right-of-way line and, if different, at the building line for all lots.
- (J) A statement, as to type and width of grading, pavements, or surfacing proposed by the developer, shall be placed on the plat over the developer's signature; provided that no work related to such improvements may begin until the commission has given its written approval. The developer shall arrange with the appropriate utility department for the payment, and refund of all construction costs of each utility involved, and all such arrangements with a department of the city shall be in writing and subject to the approval of the commission.
- (K) A designation shall be shown of the proposed uses of land within the subdivision; that is, the type of residential use, location of business or industrial sites, and sites for churches, schools, parks or other special uses.
- (L) Locations, widths, names of existing streets, lots, easements, pipelines, fee strips, survey lines, building lines, watercourses, and other important features within and immediately adjacent to the subdivision. Use light dashed lines to indicate features not within the boundary of the subdivision.
- (M) A key map showing the subdivision in relation to major streets in all directions to a distance of at least one (1) mile shall be included on the plat.
- (N) Name and address of the owner, developer, lienholder, surveyor, and engineer.

- (O) Dimensions, locations, labels, and acreage of each lot, street, road, park, easement, square, and other portions of land intended to be dedicated to public use, or for the use of purchasers or owners of lots or tracts within the subdivision. All dimensions must include a bearing and distance. Indicate the total length of all roads in linear feet.
- (2) Payment of all required fees.
- (3) Drainage study.
- (4) Traffic impact analysis.
- (5) Application for a floodplain development permit if required under Article 3.04 of the Code.
- (6) Evidence that the applicant has submitted the information required by subsection (e), below.
- (7) Tree survey.
- (8) All applications for variances identified at the time of submittal of the Preliminary Plat application. Applications for variances must comply with the requirements applicable to such variance, including requirements for the submittal of hard copies, if any.
- (e) Submittal to third parties. An applicant for a preliminary plat shall submit copies of the preliminary plat and the information listed below or otherwise required to all utilities that will provide service to the proposed subdivision and all entities with regulatory authority pertaining to the proposed subdivision including but not limited to the following:
 - (1) Electric, gas, and telecommunications – utility layout.
 - (2) Public water system – utility layout, water system study, and water construction plans.
 - (3) Public sewer – utility layout, sewer system study, and sewer construction plans.
 - (4) United States Postal Service – list of street names for approval, Preliminary Plat and address plat.

- (5) Emergency Services – address plat.
- (6) Texas Department of Transportation (TXDOT) - utility plan and construction plans for roads intersecting rights-of-way controlled by TXDOT.

Sec. 10.03.003 Final Plats

- (a) Required. A final plat suitable for recording in the plat records of Bastrop County is required for all subdivisions as the final layout of lots, streets, public dedications, easements, and other property features.
- (b) Application Requirements. A person seeking approval of a final plat must file an application in the format established by the city. The items listed below must be submitted at the time such application is filed and must conform to the regulations set forth below. The items below must be submitted in an electronic format unless stated otherwise.
 - (1) The final plat must be submitted electronically and with 2 paper copies measuring 18" by 24" with a minimum of a 1/2-inch margin; such final plat must show all information required for a preliminary plat brought current to the date of the application plus the following information:
 - (A) Location of proposed lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimal fractions of feet, with the length of radii and arcs of all curves, all angles, and with all other engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. Contours, with an interval of one (1) foot or two (2) feet as governed by the topography, shall be shown as light, dashed lines. All elevations shown shall be referred to city datum. The contours may be shown on a separate sheet if so desired but the drawing shall be of the same scale as the plat.
 - (B) The location of building lines on front and side streets, and the location of utility easements.
 - (C) An instrument of dedication signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the

property, showing all restrictions, reservations, dedications, and easements, if any, to be imposed and reserved in connection with the addition.

- (D) An indemnity against any claim for damages against the city occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision.
 - (E) Certification by a registered engineer or a state licensed land surveyor to the effect that the plan represents a survey made by such professional, and that all the necessary survey monuments are correctly shown thereon.
- (2) Payment of the platting fee, review fee and other required fees.
 - (3) The final utility layout showing all proposed utilities and easements.
 - (4) The final traffic impact analysis.
 - (5) Construction cost projections for improvements required herein. Cost projections prepared without complete and approved construction plans shall include at a minimum a 10% design phase contingency and a 15% construction contingency.
 - (6) The approved floodplain development permit if required under Article 3.04 of the Code.
 - (7) The final drainage study.
 - (8) The recorded deed of the subject property.
 - (9) Approval of the final plat reviewed by all utilities that will provide service to the proposed subdivision and all entities with regulatory authority pertaining to the proposed subdivision, including but not limited to electric, gas, water, sewer, and telecommunication utilities, TXDOT, and the Texas Commission on Environmental Quality.
 - (11) Performance bond or letter of credit (if applicable).
 - (12) Orders approving any requested variances.
 - (13) Tax certificates showing that all property taxes for the property are current.

- (14) Proof of authority for the signature on behalf of the owner, such as a resolution or power of attorney.
- (15) Other applicable legal documents including deed restrictions and homeowner's association documents.
- (16) Verification of closure of the outer boundary of the plat.
- (17) If utility services must be extended beyond the outer boundary of the proposed subdivision across privately owned land to provide service to the lots in the proposed subdivision, then those utility service extensions must be contained in easements. Copies of the recorded easements for said utility extensions must be provided along with a map view showing the extensions from the outer boundary of the proposed subdivision to their ultimate connection points to be able to provide service.
- (18) Lienholder's acknowledgement if applicable.
- (19) Utility certification pertaining to the area within the final plat.
- (20) Tree removal permit.

Sec. 10.03.004 Minor Plat

- (a) Purpose. The purpose of a minor plat is to simplify divisions of land under certain circumstances pursuant to Texas Local Government Code § 212.0065.
- (b) Applicability. The minor plat procedure under this section is only available when all of the following circumstances apply:
 - (1) The proposed division results in four (4) or fewer lots:
 - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this chapter; and
 - (3) Except for right-of-way easements and widening dedicated to the public, the minor plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

- (c) Application requirements. The requirements for the submittal of a minor plat are the same as the requirements for a final plat, provided that no preliminary plat is required.

Sec. 10.03.005 Development Plat

- (a) Authority and Purpose. This section is adopted pursuant to Texas Local Government Code, Chapter 212, Subchapter B, §§ 212.041–212.050, as the same may be amended from time to time, for the purpose of regulating the development of land inside the city limits and in the ETJ that is not subject to the general platting requirements adopted pursuant to Texas Local Government Code, Chapter 212, Subchapter A, §§ 212.001-212.018, to promote the health, safety, morals, or general welfare of the city and the safe, orderly, and healthful development of the city.
- (b) Applicability. This Section 10.03.005 applies to all land within the city limits and the ETJ, provided that nothing in this section requires a development plat in addition to a conceptual plan, preliminary plat, final plat, vacate and re-plat, re-plat, amendment to plat, or amending plat. To the extent, and only to the extent, that they do not conflict with the provisions of this section, all provisions of the City of Smithville Subdivision Ordinance apply to development plats.
- (c) Development. In this section only, “development” means the new construction or the enlargement of any exterior dimension of any building, structure, or improvement. All development of a tract of land for which a development plat is required shall conform to the approved development plat for such tract.
- (d) Development plat required. Any person who proposes the development of a tract of land located within the city limits or the ETJ must have a development plat of the tract prepared in accordance with Texas Local Government Code, Chapter 212, Subchapter B, §§ 212.041–212.050, as the same may be amended from time to time. Such development plat shall conform to this section and the city’s general plans, rules, and ordinances concerning its: (a) current and future streets, sidewalks, alleys, parks, playgrounds, public use facilities; and (b) the extension, improvement, or widening of city roads, streets, and public highways within the city limits and the ETJ.
- (e) Prohibition on development. No person may conduct any development, and no city, county or official of another governmental entity may issue a building permit or any other permit for development on land subject to this section, without a required development plat.

- (f) Contents. A development plat shall conform to the same specifications as a final plat, except the drawing shall be labeled as “Development Plat.” In addition to the specifications required of final plats, a development plat must be prepared by a surveyor as a boundary survey showing:
- (1) each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;
 - (2) each easement and right-of-way within or abutting the boundary of the surveyed property; and
 - (3) the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.
- (g) Application of Other Regulations. Notwithstanding anything to the contrary, the provisions of this Subdivision Ordinance pertaining to impervious cover, drainage and flood protection, and right of way dedication apply to all development plats.
- (h) Approval. A development plat may only be approved if the development plat conforms to:
- (1) The general plans, rules, and ordinances of the city concerning current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities;
 - (2) The general plans, rules, and ordinances of the city for the extension of the city or the extension, improvement, or widening of the city’s roads, streets, and public highways within the city and in the city’s extraterritorial jurisdiction, taking into account access of sewer and water mains and the instrumentalities of public utilities; and
 - (3) The general plans, rules, or ordinances of the city adopted under Section 212.044, Texas Local Government Code, including but not limited to this section.

Sec. 10.03.006 Conveyance Plats

- (a) Purpose. The purpose of a conveyance plat is to subdivide land and to provide for recordation of same for the purpose of conveying the property without developing it. A conveyance plat may be used to convey the property or interests therein; however, a

conveyance plat does not constitute approval for any type of development on the property. A conveyance plat is an interim step in the subdivision and development of land. A conveyance plat is not a required permit or authorization for development of any land or project.

- (b) Applicability. A conveyance plat may be used in lieu of a final plat to record the subdivision of property in the following instances:
 - (1) To record the remainder of a tract that is larger than five (5) acres, and that is created by the final platting of a portion of the property, provided that the remainder is not intended for immediate development.
 - (2) To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required public improvements exist to the city's current standards prior to approval and minimum frontage requirements are met. All public rights-of-way must be dedicated and all abutting streets and utilities must be installed and accepted by the city. Installation of on-site improvements may be delayed if development of other tracts is not affected.
- (c) Review and Consideration. Unless otherwise specified within this section, a conveyance plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a final plat.
- (d) Subsequent Filing of a Final Plat. No final plat processed and approved in association with a conveyance plat shall be filed without the concurrent or prior filing of the associated approved conveyance plat.
- (e) Standards for Approval.
 - (1) Access. All lots created by a conveyance plat shall have frontage and access to an existing public street or a proposed public street that connects to the existing city street system. All lots created by a conveyance plat shall provide points of access as required by the Zoning Ordinance and by this Ordinance.
 - (2) Dedication of Rights-of-Way. Dedication of rights-of-way shall be required in accordance with the city's general plans, rules, and ordinances concerning its: (a) current and future streets, sidewalks, alleys, parks, playgrounds, public use facilities; and (b) the extension, improvement, or widening of city roads, streets, and public highways within the city limits and the ETJ.

- (f) Effect of Approval. The approval of a conveyance plat authorizes conveyance of the lot(s) created thereby but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions in this chapter upon future development of the property including, but not limited to, all requirements for platting, required public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements in this chapter. No building or development permits shall be issued nor permanent utility service provided for land that has only received approval as a conveyance plat; a final plat must be filed for building and development permits and for utility service. Notwithstanding the above, the city manager may authorize temporary building permits, temporary occupancy permits, and temporary utility service. A conveyance plat may be superseded by a revised conveyance plat or a final plat in total or in part through compliance with the procedures and requirements of this Ordinance.
- (g) Acknowledgment. All conveyance plats must include “Conveyance Plat” in their title and must carry the following acknowledgment:

“This conveyance plat is a record of property approved by the City of Smithville, Texas for the purpose of sale or conveyance only. No building permit shall be issued, nor development begin, nor permanent public utility service provided until a final plat is approved and filed of record in accordance with the Code of Ordinances of the City of Smithville, Texas.”

Sec. 10.02.007 Vacating Plat

- (a) No lots sold. The owners of a tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
- (b) Lots sold. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- (c) Application. An application to vacate a plat, or a part of a plat, must be submitted on a form established by the city and, in addition to any other required information, must include the following:

- (1) Three copies of the instrument vacating the plat or portion of plat signed by all of the owners of the land in the plat with a notarized signature.
 - (2) Certified copy of the current tax roll or other sworn evidence establishing that all the owners of lots in the plat have duly signed the instrument vacating the plat.
- (d) Effect. On the execution and recording of the vacating instrument, the vacating plat has no effect.

Sec. 10.02.008 Replatting Without Vacating Preceding Plat.

- (a) Applicability. A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
- (1) is signed and acknowledged by only the owners of the property being replatted;
 - (2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard by the municipal authority responsible for approving plats;
 - (3) does not attempt to amend or remove any covenants or restrictions; and
 - (4) does not attempt to include any land not contained within the preceding plat.
- (b) Application. An application for a replat under this section must include the information required for a final plat, with the following exceptions:
- (1) When notification is required, the application must include a map of the lots in the original subdivision within 200 feet of the replat accompanied by a list of property owners of the lots from the most current tax roll and a fee required by the city for the required notices.
 - (2) If the replat does not increase the number of lots from the original plat:
 - (A) No traffic impact analysis is required, and
 - (B) No environmental assessment is required.
 - (3) If the replat does not increase the number of water and sewer service units required to serve the property:

- (A) A water system study is not required, and
- (B) A sewer system study is not required.
- (4) If the replat does not increase the impervious cover a drainage study is not required.

(c) Residential Replats.

- (1) *Applicability.* In addition to other requirements, a replat without vacating the preceding plat must comply with this subsection if:
 - (A) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - (B) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- (2) *Hearing.* The planning and zoning commission will conduct a public hearing on a proposed replat within 30 days of filing an administratively complete application.
- (3) *General notice.* This subsection only applies to a replat that does not require a variance or exception. No later than the 15th day after the hearing, the city shall mail written notice of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the replatted lots according to the most recent municipal or county tax roll. The notice will include:
 - (A) the zoning designation after the replat; and
 - (B) the telephone number and email address an owner of a lot may use to contact the municipality about the replat.
- (4) *Variance.* This subsection applies to a proposed replat that requires a variance or exception.
 - (A) Notice of the hearing shall be given before the 15th day before the date of the hearing by:

- (i) publication in an official newspaper of general circulation in Bastrop County; and
- (ii) written notice sent via U.S. mail, postage prepaid, to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll, such written notice to include the following statement as an attachment:

“If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal planning commission or governing body, or both, prior to the close of the public hearing.”

(B) A variance may be protested by filing a protest that is:

- (i) filed with the planning and zoning commission or the city council, or both;
- (ii) filed prior to the close of the hearing;
- (iii) signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area but within the original subdivision, the percentage of land area being computed with the area of streets and alleys included.

(C) If the variance is protested in accordance with this ordinance, then the affirmative vote of at least three-fourths of the members present of the planning and zoning commission and city council is needed to approve the replat.

- (D) Subsection (C), immediately above, does not apply to the approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single- or duplex-family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

Sec. 10.03.09 Amending Plat

- (a) Availability. The city may approve and issue an amending plat, which may be recorded and is controlled over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:
 - (1) to correct an error in a course or distance shown on the preceding plat;
 - (2) to add a course or distance that was omitted on the preceding plat;
 - (3) to correct an error in a real property description shown on the preceding plat;
 - (4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) to correct any other type of scrivener or clerical error or omission previously approved by the planning and zoning commission, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) to correct an error in courses and distances of lot lines between two adjacent lots if:
 - (A) both lot owners join in the application for amending the plat;
 - (B) neither lot is abolished;
 - (C) the amendment does not attempt to remove recorded covenants or restrictions; and

- (D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat as established by the information included in the application;
- (8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) to relocate one or more lot lines between one or more adjacent lots if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) the amendment does not increase the number of lots;
- (10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) the changes do not affect applicable zoning and other regulations of the city;
 - (B) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) the area covered by the changes is located in an area that the planning and zoning commission has approved, after public hearing, as a residential improvement area; or
- (11) to replat one or more lots fronting on an existing street if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions;
 - (C) the amendment does not increase the number of lots; and
 - (D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

- (c) Application. The application must include one (1) copy of the amending plat, an electronic PDF copy of the amending plat, an 11 by 17 reduction of the amending plat, a completed application to plat form, the appropriate application fees, a copy of the recorded deed, and a lienholder's acknowledgement (if applicable).
- (b) Notice. Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

ARTICLE 10.04 SUBDIVISION DESIGN

Sec. 10.04.001 Conformity with Plans

- (a) No plat or plan may be approved unless such plat or plan and any associated improvements, conform with this Chapter, any design manuals, and the city's general plans for current and future streets, alleys, parks, playgrounds, and public facilities; and for extension of the city's roads, streets, and public highways within the city and in its ETJ, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
- (b) All studies and reports required under this chapter must be prepared in conformance with the terms of this chapter, any design manuals, and any other regulations established by the city from time to time.

Sec. 10.04.002 Improvements

- (a) Developers must provide all improvements required under this ordinance or approved as part of a plan or plat at developer's sole cost and expense.
- (b) Approval of plans and specifications for construction of improvements does not relieve the developer of the responsibility to comply with this ordinance, the city's code of ordinances, or the regulations of other local, county, state, and federal authorities having jurisdiction.
- (c) All improvements must be constructed to the standards set forth in this ordinance and in any design manuals adopted by the city from time to time, as the same may be amended, restated, or otherwise modified. The city will not accept improvements that do not conform to the standards and specifications of the city.

Sec. 10.04.003 Blocks

- (a) Blocks. A block within a subdivision consists of a portion of the property to be subdivided that is bounded on all sides by existing or proposed streets, the property boundary of the property being subdivided, or a combination thereof.
- (b) Dimensions. Block dimensions are measured from one corner of a block where it intersects with either a street or the property boundary to another corner of the block that intersects a street or the property boundary in accordance with the following:
 - (1) Block length is the distance from one corner of the block to another corner measured along the property line abutting a public right of way that is of the greatest dimension.
 - (2) Block width is the smallest distance from one property corner to another property corner measured along the property line abutting the public right of way that is of the smallest dimension.
- (c) Block Design. Blocks must be configured to promote safe traffic circulation and public safety. Street intersections must be provided at such intervals necessary to provide adequate access for fire, police, and emergency services. Blocks must conform to the following:
 - (1) Intersecting streets must be provided at such intervals as necessary to be compatible with existing subdivisions and serve traffic adequately. Intersecting streets must align with existing streets.
 - (2) Block lengths may not exceed 600 feet.
 - (3) Block widths may not be less than 300 feet.
- (d) Numbering. Blocks must be numbered sequentially within a plat. Blocks which are continuations of blocks in prior approved plats of a phased subdivision must have the same block number as in the prior. No two blocks within the same plat may have the same number.

Sec. 10.04.004 Lots

- (a) Design. Lot size and configuration must comply with the applicable zoning regulations and other applicable codes, laws, and regulations.

- (b) Numbering. Each lot must have a unique number within its block so that reference to the subdivision plat name, block number, and lot number will refer to a single unique lot.

Sec. 10.04.005 Alleys

- (a) Defined. An alley is a minor right of way, dedicated to public use, that affords a secondary means of vehicular access to the back side of lots otherwise abutting a street. Alleys are not considered streets when determining block dimensions.
- (b) Standards.
 - (1) When required by the city's zoning regulations or other ordinance, law, or regulation, alleys must conform to the provisions pertaining to such required alleys. The ordinance, law, or regulation requiring the alley controls to the extent of any conflict with this chapter.
 - (2) Alleys provided in blocks zoned for residential use may be no less than twenty feet in width and must be paved and brought to an established grade.
 - (3) Alleys must intersect streets at right angles, provided that alleys may intersect radially to curved streets. Radii for turnouts for alleys intersecting a street must be at least 5 feet.
 - (4) The intersection of an alley with a street must be separated by at least one lot from the intersection of two streets.
 - (5) Alleys may not intersect with a street that is designated as an arterial or a highway.

Sec. 10.04.006 Streets

- (a) Generally. Each development must be served by adequate streets and related improvements, all to be constructed at the sole cost and expense of the developer. Streets within a subdivision must be configured and constructed in conformance with the city's general plans for current and future streets, alleys, parks, playgrounds, and public facilities

as well as the city's plans for extension of the city's roads, streets, and public highways. Street categories will be determined by the city's transportation plan and by the recommended street categories set forth in the approved TIA. To the extent of any conflict between the standards set forth in this section and the standards set forth in a design manual pertaining to streets, the standards in such design manual controls.

(b) General Design. Streets must be designed in relation to the city's plans, existing and proposes streets, topography, and other physical conditions and in accordance with the following:

- (1) The system of streets within a subdivision must coordinate with the streets of adjacent subdivisions and developments.
- (2) If adjacent property has not been subdivided, the arrangement of streets within a subdivision shall provide for the proper projection of streets into such unsubdivided property considering the streets in the surrounding area.
- (3) Reserve strips of land controlling access to or egress from other property or to or from any street or alley or having the effect of restricting or damaging the adjoining property for subdivision purposes or which will not be taxable or assessable for special improvements are prohibited unless such reserve strips are conveyed to the city in fee simple.
- (4) Each subdivision must have a minimum of two streets providing ingress and egress to the subdivided tract.
- (5) Street layout must provide for the continuation of collector streets in areas between arterial streets.
- (6) Local streets must be extended through the tract to the tract boundary to provide future connection with adjoining unplatted lands at intervals necessary to facilitate internal vehicular circulation with adjoining unplatted lands.
- (7) Arterial and collector streets must be continuous or in alignment with existing streets. Off-center street intersections are prohibited.

(c) Categories. Streets within a subdivision are categorized as follows:

- (1) Local streets – Serve traffic within a neighborhood, a subdivision, or residential district, and that are not necessarily continuous through several residential districts.

A local street within a proposed subdivision is any street that does not meet the criteria of a collector street or arterial street.

- (2) Collector streets – Connect local streets and residential neighborhoods with arterials, other residential neighborhoods, and commercial districts. Collector streets can be minor or major collectors. A major collector is a collector street that is designated as a major collector street by the city or that has an average daily trip count of more than 8,000 as set forth in an approved TIA. A street within a proposed subdivision must be constructed as collector street if the street meets one or more of the following criteria:
 - (A) designated as a collector street by the city.
 - (B) has an average daily trip count of 8,000 or more, but less than 27,000 as set forth in an approved TIA.
 - (C) intersects two or more local streets and a collector street, arterial street, or highway.
- (3) Arterial streets - Major thoroughfares for vehicular traffic that are more or less continuous across the city, intended to connect remote parts of the city, or adjacent areas, and acting as a principal connecting street with state and federal highways. A street within a proposed subdivision must be constructed as an arterial street if the street meets one or more of the following criteria:
 - (A) designated as an arterial street by the city.
 - (B) has an average daily trip count of 27,000 or more, but less than 56,000 as set forth in an approved TIA.
 - (C) intersects two or more collector streets and a highway.
- (4) Highway – a state or federal highway.
- (d) Grades. Arterial streets must have a maximum grade of five (5) percent for a maximum continuous distance of two hundred (200) feet. All streets must have a minimum grade of at least one-half (1/2) of one (1) percent. Centerline grade changes with an algebraic difference of more than two (2) percent must be connected with vertical curves of sufficient length to provide a minimum of six hundred (600) feet sight distance on arterials and four hundred (400) feet sight distance on collector streets and local streets. All vertical curves

must be of such length so as to provide comfortable flow of traffic. Wherever a cross slope is necessary or desirable from one curb to the opposite curb, such cross slopes shall not be less than one-tenth (0.1) inch in one (1) foot nor more than one-half (1/2) inch in one (1) foot.

- (e) Pavement. Pavements must be designed and constructed in accordance with the latest edition of the AASHTO Guide for Design of Pavement Structures and the TXDOT Pavement Design Manual. Pavement design must be prepared and sealed by a professional engineer licensed in the State of Texas.

- (f) Widths. Street widths must be consistent with the table below:

STREET TYPE	R-O-W WIDTH	PAVEMENT WIDTH ¹	CURB AND GUTTER REQUIRED ²
Divided Highway (4 lanes)	200'	2 x 48'	No
Highway, 4-Lane Undivided	150'	80'	No
Arterial	90'	64'	Yes
Major collector	70'	40'	Yes
Collector	60'	30'	Yes
Local	60'	26'	Yes

1 For curbed sections, pavement width is measured from back of curb to back of curb.

2 One-foot flat curb and 4:1 slope bar ditches may be substituted for curb and gutter with approval by the city manager.

- (g) Intersections. Arterials must have a minimum radius at the centerline of one thousand, nine hundred ten (1,910) feet; collector streets must have a minimum radius at the centerline of nine hundred fifty-five (955) feet; local streets must have a minimum radius at the centerline of five hundred (500) feet. Intersections with an arterial street may not vary from a 90-degree angle by more than 5 degrees. Intersections of collector and local streets may not vary from a 90-degree angle by more than 15 degrees.

- (h) Dead-ends and cul-de-sacs.

- (1) Cul-de-sacs must meet the following criteria:

- (A) A street ending in a cul-de-sac may not exceed 500 feet in length measured from the intersection closest to the end of the cul-de-sac along the centerline of the street.
 - (B) The cul-de-sac must have a turnaround with a minimum outside paving diameter of 100 feet and a minimum right of way of 120 feet.
- (2) Dead-end streets
 - (A) Dead-end streets are prohibited except for streets ending in cul-de-sacs that meet the criteria set forth above and streets that are intended to be extended in the future and the dead-end design is only temporary in nature.
 - (B) A temporary dead-end street may not exceed 400 feet in length and must have a turn-around at the closed end with an outside radius of at least 60 feet to the face of the curb and a minimum radius of 70 feet to the property line.
- (i) Curbs and Gutters. All streets must be constructed with curbs and gutters. Radial curb and gutter shall be constructed at each corner block to which curb and gutter is constructed. Lay down curbs shall be constructed across all alley intersections. All curb and gutter and all lay down curbs shall be constructed in accordance with the plans and specifications on file with the city and, at a minimum, shall be constructed upon a compact base of minimum depth of four (4) inches and extending at least 6 inches (6") behind the back of the curb. All concrete used shall be Class B concrete, as defined by the Texas Department of Transportation. Valley gutters are required and shall be paved with concrete meeting Texas Department of Transportation specifications for Class A concrete. All materials must meet the specifications of the city.
- (j) Sidewalks.
 - (1) *ADA requirements.* All sidewalks must be designed and constructed to meet the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act of 1990, as amended.
 - (2) *Required.* In residential areas, sidewalks must be installed for every street on both sides of the street right-of-way within the street right of way or within a dedicated sidewalk easement.

- (3) *Design.* Sidewalks must be installed parallel to the curb, not more than 2 feet above or below the grade of the adjacent curb, and located at least 1 foot inside the dedicated right of way line. Sidewalks along local residential streets must be at least 4 feet wide. Sidewalks abutting commercial property must be at least 10 feet wide. Parkways, the area between curbs and the right-of-way line, shall be excavated or filled to a grade parallel with the longitudinal street grade, and the ground elevation at the right-of-way line shall be not more than two (2) feet, nor less than three (3) inches above the elevation of the top of the adjacent curb. Landing walks of a width not less than eighteen (18) inches may be installed abutting the rear of the curb.
- (k) Street posts and markers. Street signs must be installed for all intersections within or abutting the subdivision at the sole cost and expense of the developer. Street signs must be of a type approved by the city and installed in accordance with the Texas Department of Transportation Manual on Uniform Traffic Control Devices.
- (l) Street names. All streets within a subdivision must be named. Names of new proposed streets may not duplicate or cause confusion with the names of existing streets.

Sec. 10.04.007 Traffic

- (a) Definitions. In this section, the following terms shall have the meanings ascribed to them below:

AADT - Average annual daily traffic.

ADT - Average daily traffic.

PHV - Peak hour volume.

TIA - Traffic impact analysis performed pursuant to subsection iv) below.

TIA Worksheet - a worksheet on a form provided by the city to be completed as required by this section.

ITE - Institute of Transportation Engineers.

Trip Generation Manual - The Trip Generation Manual published by the ITE.

ITE Impact Analyses - Impact Analyses for Site Development published by the ITE.

(b) General Provisions. The following general provisions apply:

- (1) City Manager Discretion. All determinations, comments, or other decisions made by the city manager shall be made at the reasonable discretion of the city manager for the purpose of promoting the health, safety, and welfare of the public.
- (2) Code and Manual References. All references to manuals, codes, ordinances, laws, rules, regulations, or other standards are to the most current versions of same, including all amendments and updates, at the time any submittal is made, unless otherwise provided or required by law. All references to particular terms within the referenced manuals, codes, ordinances, laws, rules, regulations, or other standards includes the functional equivalent of such terms as the same may be amended, recodified, or otherwise modified from time to time.
- (3) Preparation. The TIA worksheet, the TIA, any amendments thereto, and any other submittals required by this section that involve the practice of engineering, as defined by Texas Occupations Code § 1001.003, may only be prepared and sealed by a Texas licensed professional engineer with demonstrated expertise in traffic engineering. Such submittals must be prepared in accordance with the relevant standards and manuals published by the Institute of Transportation Engineers, including but not limited to the Trip Generation Manual and the ITE Impact Analysis; other published or recognized sources applicable to the region as may be designated by the city manager from time to time; and any specific requirements in the city code. Traffic analysis for developments must be based on the most intense use or uses permitted within the applicable or proposed zoning district, or, if the development is within the ETJ, on the most intense proposed use.

(c) Traffic Impact Analysis Worksheet.

- (1) Required. At the time the first application required by this code for any development is filed, a completed traffic impact analysis worksheet on a form approved by the city containing all information requested on such form must be filed along with the required fee. If the development is an expansion or redevelopment of an existing development, a completed TIA worksheet and required fee must be provided at the time the first application for such expansion or redevelopment is filed.
- (2) Included Information. The TIA worksheet shall be accompanied by the following information:

- (A) Peak hour trips anticipated for the entire area of the development based on the proposed use or combination of uses;
 - (B) Trip distribution and assignment diagrams;
 - (C) Site plan including planned driveway locations; and
 - (D) Basis for the background traffic growth rate, if applicable.
- (3) Preparation. The TIA worksheet shall be prepared considering the impacts of traffic being generated by adjacent areas. The TIA worksheet for the expansion or redevelopment of an existing development shall consider the cumulative impact of the existing development and the proposed expansion or redevelopment.
- (4) Comments. The city may issue comments in response to a TIA worksheet. All such comments must be addressed to the city's reasonable satisfaction before a TIA worksheet may be approved.
- (d) Traffic Impact Analysis.
- (1) Required. If the approved TIA worksheet for a development indicates that the development is expected to generate traffic in excess of fifty (50) peak hour trips, then a traffic impact analysis shall be submitted. No application shall be approved or submitted for approval until the required TIA has been approved. All preliminary plats, final plats, development plats, replats, or other submittals intended for final approval shall be prepared in accordance with the approved TIA pertaining to such submittal. After the initial TIA has been approved, each subsequent development permit application shall be accompanied by a letter signed and sealed by a registered professional engineer certifying whether any of the conditions requiring an amendment of the TIA have occurred.
- (2) Scope of TIA; Meeting. If a TIA is required, the scope of the TIA will be determined during a scope meeting with the city manager. A fee for the scope meeting shall be paid at the time of a request for the scope meeting. No TIA may be submitted until the scope of the TIA has been determined. The result of the scope meeting shall be reduced to writing and signed by the developer acknowledging receipt.
- (3) TIA Criteria. The scope meeting shall determine the following criteria for preparation of the TIA:

(A) Type of TIA.

- (i) *Minor.* A minor TIA is required for a development that generates more than fifty (50) peak hour trips but not more than: (1) five hundred (500) peak hour trips for a development with a single land use; or (2) three hundred (300) peak hour trips for a development with multiple land uses.
- (ii) *Major.* A major TIA is required for a development with a single land use that generates more than five hundred (500) peak hour trips and for a development with multiple land uses that generates more than three hundred (300) peak hour trips.
- (iii) *Special.* The city manager may require a special TIA that includes criteria tailored to the particular characteristics of the development if the city manager reasonably determines that the special TIA is appropriate for the development. Notwithstanding anything to the contrary, the impact area, period of analysis, analysis scenarios, growth rate assumption, phasing, and other matters for a special TIA shall be as reasonably determined by the city manager based on the particular characteristics of the development.

(B) Impact Area.

- (i) *Area of Study.* The impact area to be studied shall be based on the peak hour trips generated by the development and any other factor reasonably required by the city manager. The impact area shall extend to and include all roadways within the city limits and the ETJ that will experience an increase of at least thirty (30) peak hour trips for collectors and local streets, or at least fifty (50) peak hour trips for secondary arterials or roadways of a higher functional classification. Notwithstanding the preceding sentence, the minimum impact area for a minor TIA is the area of the development and that area within one (1) mile of the property boundary of the development, and the minimum impact area for a major TIA is the area of the development and that area within one and five-tenths (1.5) miles from the property boundary of the development.

- (ii) *Traffic Considered.* In addition to the traffic to be generated by the development, the TIA shall include and consider traffic: (1) being generated by existing developments within the impact area; and (2) traffic that will be generated by proposed developments within the impact area that have filed an application for a development permit with the city, Bastrop County, or other governmental entity within the impact area based on the content of such development permit applications.
- (C) Periods of Analysis; Completion year. The periods of analysis within the TIA may include A.M., P.M., or weekend peak hour; daily traffic; any combination thereof; or any other periods as reasonably determined by the city manager. The scope meeting shall also determine the completion year of the development.
- (D) Analysis Scenarios. The TIA shall include analysis for the following scenarios: (i) existing conditions; (ii) completion year conditions with and without the development; and (iii) completion year with the development and proposed mitigation. If the completion year determined at the scope meeting is more than six (6) years from the date of the scope meeting, then the TIA shall also include analysis of the conditions with the development and without the development for the anticipated level of completion six (6) years from the date of the scope meeting.
- (E) Growth Rate Assumptions. The rate of growth for background traffic assumptions shall include the development and shall include and consider anticipated growth of: (i) existing developments within the impact area; and (ii) proposed developments within the impact area that have filed an application for a development permit with the city, Bastrop County, or other governmental entity based on the content of such development permit applications. Growth in background traffic counts shall be assumed at a rate of two percent (2%) per year if existing or proposed development is known and included in the analysis. For property within the impact area about which planned development is unknown, the assumed growth rate in background traffic counts shall be four percent (4%) per year.
- (F) Phasing. If the development is proposed to be completed in phases, the scope meeting shall determine the phasing sequence and the completion year of each phase. The TIA shall include the anticipated roadway network and shall include analysis for each phase developed in accordance with the

phasing sequence determined at the scope meeting. Analysis of each phase shall include scenarios at the completion year of each phase without the development and with the development and shall include and consider conditions resulting from prior phases as if such prior phases were completed. If the developer proposes to alter the phasing determined at the scope meeting, then the developer shall submit an amended TIA as required by this Code.

- (G) Other. Any other matter reasonably determined by the city manager.
- (4) Preparation. The TIA shall follow standard transportation engineering practices and processes for determining trip generation and distribution including trip generation category, diversion assumptions, distribution assumptions, and the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application.
- (5) Submittal Requirements.
 - (A) Five (5) bound copies of each TIA shall be submitted to the city manager along with a digital version of the TIA.
 - (B) If the roads, facilities, or other property of the State of Texas, a county, or a municipality other than the city will be affected by the planned improvements or mitigation measures required for the development, then the developer shall submit a copy of any agreements with such jurisdictions related to such improvements or mitigation measures. Such agreements shall specify the timing, conditions, and requirements related to the proposed improvements or mitigation measures. No plat will be approved until all agreements required by this subsection have been submitted.
- (6) Traffic Study Elements. A special TIA shall contain those elements determined at the scoping meeting. All other TIAs shall include the following elements:
 - (A) Existing Condition Survey. The developer shall provide a survey of the conditions existing as of the date of the scope meeting that shall include the following.

- (i) *Street System Description.* The street system shall be described including geometric features, lane usage, traffic control, proposed signage, sight distances, curb cuts, and adjacent uses.
 - (ii) *Traffic Volumes.* Existing traffic volumes shall be provided for the impact area including both the AADT and design peak hour volumes. Counts obtained from the city or the Texas Department of Transportation and conducted within the three years prior to the study may be used in lieu of counts conducted for the subject TIA to determine the AADT. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for all intersections. Peak hour periods of analysis shall be as determined at the scoping meeting.
 - (iii) *Capacity Analysis.* The capacity analysis shall include the existing capacity of signalized and unsignalized intersections. Such capacity analysis shall be based upon methodologies approved by the city manager.
- (B) Analysis of Future Conditions. Portions of the TIA pertaining to the analysis scenarios of the completion year conditions with and without the development shall be prepared in accordance with the following:
- (i) *No-Build.* Analysis of completion year conditions without the development shall consider the roadway network that can be reasonably anticipated to exist on the completion year. Such analysis shall include the proposed roadways and improvements contained in the following:
 - (a) Capital improvement plans of the city, counties within the impact area, adjacent municipalities, and any other local government within the impact area with the authority to build roads and related infrastructure.
 - (b) The Capital Area Metropolitan Planning Organization's Transportation Improvement Plan or similar document.
 - (c) The Texas Department of Transportation's Unified Transportation Plan.

- (d) Proposed developments within the impact area that have filed an application for a development permit with the city, Bastrop County, or other governmental entity based on the content of such development permit applications.
 - (e) The assumed growth rate in background traffic counts determined in the scope meeting.
- (ii) *Build.* Analysis of the completion year conditions with the development shall be performed in accordance with the following:
 - (a) Analysis of completion year conditions with the development shall be based on the analysis of completion year conditions without the development performed pursuant to subsection i), immediately above, and anticipated traffic from the proposed development shall be added to the calculations of the completion year conditions without the development.
 - (b) The TIA shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of all described improvements.
 - (c) Projections of the daily and peak hour traffic generation of the project using the Trip Generation Manual unless the city manager determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from the Trip Generation Manual.
 - (d) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.
 - (e) If projected traffic exceeds the traffic thresholds shown in the table below, then analysis for the completion year scenarios shall include a capacity analysis for road segments in the impact area, including analysis of delay and queue length for the intersections within the impact area. Analysis

of roadway segments shall be performed in accordance with the Highway Capacity Manual regarding Urban Street Facilities and Urban Street Segments published by the Transportation Research Board of the National Academy of Sciences or such other standard approved by the city manager.

ROADWAY SEGMENT ANALYSIS THRESHOLDS			
FACILITY	LANES	ADT	DIRECTIONAL PHV
Parkway/Highway	6	84000	4175
	4	56000	2775
Primary Arterial	6	38000	1900
	4	27000	1350
Secondary Arterial	4	27000	1350
Collector	3-4	12000	600
	2-3	8000	400
Local	2	4000	200

- (f) Analysis shall be included as required by the city manager to determine warrants for signalization, minimum safe sight distances, turning radius requirements, turning lane or acceleration and deceleration lane length analysis, curb cut locations, or similar requirements.

(7) Mitigation Plan.

- (A) Minimum Level of Service. All roadways within the impact area shall have a minimum level of service of C during all phases of development and upon completion of the development. The TIA shall include a mitigation plan identifying the need and timing of transportation improvements necessary to achieve the minimum level of service during each phase of development.
- (B) Cost and Design of Improvements. Improvements recommended pursuant to a mitigation plan shall include project cost estimates that include right-of-way acquisition, utility relocation, and facility design and construction. No TIA shall be accepted unless and until the city manager approves the cost estimates in the mitigation plan. Design of improvements in the mitigation plan shall be in accordance with the specifications and standards adopted by the city, and, where appropriate, counties within the impact area,

and the Texas Department of Transportation. The mitigation plan shall also include any dedications required to effectuate the mitigation plan. Where the final approval authority for any development determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

- (C) Worksheet Only Mitigation. Turn lanes shall be required for any turning movement that will experience an increase of more than thirty (30) peak hour trips according to the approved TIA worksheet for a development that is not required to submit a TIA. The turn lanes required by this paragraph shall be designed in accordance with the Roadway Design Manual published by the Texas Department of Transportation.
- (D) Mitigation Types. Mitigation types for minor and major TIAs shall include one or more of the following, or any combination thereof, either on-site or off-site:
 - (i) Turn lanes shall be required when the auxiliary lane thresholds for deceleration lanes are met according to the latest version of the Access Management Manual and shall be designed in accordance with the Roadway Design Manual, as both manuals are published by the Texas Department of Transportation.
 - (ii) Geometric improvements, including increasing sight distance, realigning offset intersections, and realigning roadways to improve safety and operations.
 - (iii) Additional roadway capacity, when consistent with the city's Major Thoroughfare Plan.
 - (iv) Access management, including additional driveways to distribute traffic, and shared driveways, traffic islands, and restricted turns to reduce conflict points.
 - (v) Conversion of two-way stops to all-way stop control.
 - (vi) Signalization, including modifications to existing signals.
 - (vii) Innovative intersections, including roundabouts, superstreet, displaced left turns, and diverging diamond interchanges.

- (viii) Grade separation.
 - (ix) Reduction in development intensity to reduce travel demand.
 - (x) Other mitigation types as reasonably determined by the city manager including but not limited to dedication of right-of-way, payment of fees, and payment of construction costs.
- (D) Mitigation for Delay. If the TIA indicates that the level of service of a roadway in the completion year without the development scenario does not meet the minimum level of service, then mitigation shall only be required if delays on such roadways increase in the completion year with the development scenario by more than ten percent (10%) at unsignalized intersections, or by more than twenty percent (20%) at signalized intersections compared to the completion year without the development scenario.
- (8) Consultants. The city may require that a developer hire an independent consultant, at developer's sole cost, to prepare the TIA or to review all or part of the TIA prepared by a developer.
- (9) Comments. The city may issue comments in response to a submitted TIA. All comments must be addressed to the city's reasonable satisfaction before any TIA is approved.
- (10) Amendments.
- (A) Required. An amended TIA shall be required when the city reasonably determines that a development permit seeks approval of a development or a portion thereof that is inconsistent with the relevant approved TIA in any of the following respects:
- (i) Peak hour trips increase by more than five percent (5%) or twenty-five peak hour trips, whichever is less.
 - (ii) The configuration or sequence of phases changes.
 - (iii) The completion date of the development or a phase will be more than one year later than assumed in the original TIA.

- (iv) The trip generation changes, including a change in the number or location of driveways or access to the development.
- (B) Format. A required TIA amendment shall take one of the following forms as determined by the city manager:
 - (a) A revised TIA incorporating the amended conditions.
 - (b) An appendix to the original TIA, documenting the amended conditions and any changes to the mitigation plan required to satisfy the requirements of the Code.
- (e) Mitigation and Improvements.
 - (1) Developer Responsibility. The mitigation measures and improvements identified in the approved TIA shall be constructed at the sole cost and expense of the developer or the developer's successors in interest or in title in accordance with the approved TIA, the city's major thoroughfare plan, approved construction plans, the provisions of this Code, and all other ordinances, rules, statutes, or other regulations.
 - (2) Appeal. If the developer disputes the city's determination that the municipal infrastructure improvements in the approved TIA are roughly proportionate to the proposed development, then the developer may appeal such determination as follows:
 - (A) Developer shall request a final determination of rough proportionality, such determination to be made by a Texas licensed professional engineer retained by the city. At the time such request is made, the developer shall pay a fee associated with the cost of preparing such determination. The city manager may require that the developer, at the developer's sole cost and expense, submit additional information or studies pertaining to the development that may assist the city in preparing the final determination. The request for final determination under this subsection shall include the preferred method and address for delivery of the final determination and any other matter pertaining to the appeal.
 - (B) A notice of appeal of a final determination of rough proportionality must be submitted to the city Secretary within thirty (30) days of receiving such

determination. The notice of appeal shall state in detail the reasons that the measures required in the final determination of rough proportionality exceed the those that are roughly proportionate to the proposed development.

- (C) Within twenty (20) days after filing written notice of appeal, the developer shall file ten (10) printed copies and one (1) digital copy of an appeal request with the city Secretary that contains the following:
 - (i) List of witnesses expected to be called at the appeal hearing along with the resumes, addresses, phone numbers, and professional licenses of such witnesses, as well as a synopsis of the expected testimony of such witnesses.
 - (ii) Written evidence, description of anticipated oral testimony, and materials, software programs, maps, charts, graphs, studies, reviews, and reports of professionals in support of the appeal with respect to each specific portion of the final determination of rough proportionality.
 - (iii) The developer may file additional information, evidence, and other materials following the initial submittal under subsection c) immediately above, provided that all such additional materials must be filed thirty (30) days prior to the scheduled hearing.
 - (iv) An appeal of a final determination of rough proportionality shall be heard by the city council in a public hearing within a reasonable time following receipt of the appeal request and all required materials. The hearing shall be conducted in accordance with rules of procedure adopted by the city council. At such hearing, the developer and the city manager shall submit evidence and testimony. The developer shall have the burden of proof. The city council shall not consider any evidence from the developer that was not timely filed with the city secretary.
- (D) The city council shall make a final determination regarding the appeal within thirty (30) days of concluding the hearing on such appeal. A developer aggrieved by the final determination of the city council may appeal the final determination to the county or district court of the county

in which the development project is located within thirty (30) days of the final determination of the city council.

Sec. 10.04.008 Drainage

- (a) Generally. All drainage must be constructed in accordance with this Code and any design manuals adopted by the city. Structures for drainage must be constructed in such locations and of such size to adequately serve the development and the contributing drainage area.
- (b) Storm Sewers. Storm sewers must be provided, and curb inlets located, as needed to properly drain all streets and intersections. At a minimum, curb inlets must be provided every 500 feet. Sewers and curb inlets may only be constructed after approval by the city manager.

Sec. 10.04.009 Monuments

- (a) Generally. The engineer or surveyor responsible for the plat shall place permanent monuments at each corner of the boundary survey of the subdivision and the centerline intersection point of all streets.
- (b) Design. Monuments shall be a concrete post, four (4) inches in diameter and four (4) feet long, or other such type monuments as shall be approved by the city manager. The precise point of intersection shall be indented on the top of the monuments. Block corners shall be referenced to these monuments and the bearing and distance of the reference lines filed in written form with the city manager. Tops of monuments shall be set to pavements, grade in permanent type pavements, two (2) inches below grade in nonpermanent type pavements and flush with existing ground level in nonpaved areas. Elevations and locations of monuments shall be shown on the final plat.

Sec. 10.04.0010 Parkland Dedication

- (a) Required. The developer of any residential subdivision must designate a portion of such subdivision as parkland, or pay a fee in lieu of such designation, in conformance with this section.
- (b) Amount. All developments must include a minimum dedication of parkland that is the greater of: (1) 5 acres; or (2) an area equal to 1 acre for every 133 dwelling units proposed in the development rounded up to the nearest one-tenth of an acre.

- (c) Phasing of Parkland Dedication. Parkland must be identified on a conceptual plan for residential development. Dedication and conveyance of parkland may be provided in phases in accordance with the approved conceptual plan; provided that the dedication for each phase meets or exceeds the parkland dedication requirements of this Subchapter for that phase of development.
- (d) General Criteria for Parkland Dedication. In order to ensure proper design and location of all parkland, the dedication of parkland shall conform to the following general criteria for size, dimension, location, access and character.
 - (1) *Size, Dimensions, and Access*. Parkland must:
 - (a) Be a minimum of five (5) contiguous acres; and
 - (b) Have minimum lot dimensions of 200 feet in length and depth at all portions;
 - (c) Be bounded by public right-of-way on at least 50% of its total boundary; and
 - (d) Have entrances located along collector or higher classification roadways.
 - (2) *Location*. To the extent practicable parkland must be located:
 - (a) Adjacent to and contiguous with existing parkland;
 - (b) Adjacent to and contiguous with existing or proposed school sites;
 - (c) Within the portion(s) of the development tract that contain the most protected trees; and
 - (d) Adjacent to or contiguous with places of historical significance.
 - (3) *Unsuitable Land*. Land with the following characteristics may be not be included in land dedicated for parkland:
 - (a) Drainage ditches and conveyance ways.
 - (b) Detention and Retention Ponds.

- (c) Floodway or 100-year floodplain as determined by the Federal Emergency Management Agency.
- (d) Narrow strips of land that cannot be used for programmed activities other than trails or walkways.
- (e) Slopes exceeding 15%.
- (f) Easements, including but not limited to, utility easements and drainage easements that may restrict and limit the ability for active recreational uses;
- (g) Land containing environmental hazards as indicated by a phase one environmental assessment;
- (h) Land with reservation of mineral rights owned by a private entity or land used for mining, oil or gas wells: unless a surface rights waiver, of suitable legal form approved by the city Attorney, is provided; or
- (i) Entry subdivision features, areas devoted to decorative landscaping, traffic islands, street medians, and areas following development perimeter walls.

(e) Parkland Dedication Fee in-Lieu.

- (1) *Criteria.* The planning and zoning commission and the city council may allow a parkland dedication fee in lieu of all or part of the required parkland dedication under any the following circumstances, or a combination thereof:
 - (a) If, due to the proximity of existing public parkland or the size of the development would be better served by a community or regional park;
 - (b) When less than five (5) acres of parkland is required to be dedicated if calculated using the formula of 1 acre per 133 dwelling units.
 - (c) When a replat or amending plat is submitted subsequent to a rezoning to a higher density classification;
 - (d) When the proposed development is multifamily or a condominium; or
 - (e) Upon application by the developer and a showing of good cause.

- (2) Amount. The parkland fee in-lieu amount is established at \$43,560.00 per acre, or a portion thereof, for the value of platted land to be developed for residential uses that would otherwise be dedicated as public parkland. The fee in lieu of parkland dedication is intended to represent the fair market value of the land, that is developable for single-family use, and that would otherwise be required to be dedicated as public parkland for the proposed development, with all utilities extended to and through the property and situated outside of the base flood elevation. The amount of the fee-in-lieu may be modified upon submittal of an appraisal meeting the property criteria outlined above that is no more than a year old.
- (3) Payments. If a fee-in-lieu of parkland dedication is allowed:
- (a) The amount of the fee will be determined at the time of conceptual plan approval or at the time of preliminary plat approval if a conceptual plan is not required.
 - (b) The fee must be paid prior to submittal of any final plat.
 - (c) All payments will be deposited in an escrow account to be used by the city exclusively for the acquisition or improvement of public parkland.
- (f) Dedication of Parkland.
- (1) Required parkland must be designated as a lot on each conceptual plan, preliminary plat, and final plat as “Parkland” with the acreage of the parkland also shown. A note referencing the dedication shall be placed on the final plat. Such parkland must be dedicated to the city, except as provided below.
 - (2) In lieu of dedicating required parkland to the city, if the development has a property owners’ association or similar entity established for the maintenance of common areas, the parkland may be designated as “common area” or similar designation in the plans and plats. Prior to recording the final plat, the developer shall deliver to the city a deed in a form approved by the city attorney conveying the parkland to the property owners’ association, or similar entity established for the management of common areas. The parkland deed shall not be subject to reservations of records encumbrances or easements that will interfere with the use of the land for park purposes. The deed under this paragraph shall be recorded in conjunction with the recordation of the final plat.

Sec. 10.04.011 Tree Preservation

(a) Purpose. The terms and provisions of this section are intended to accomplish the following public purposes:

- (1) Establish rules and regulations governing the protection and preservation of native or established trees within the city.
- (2) Encourage the protection of healthy trees and provide for the replacement or replanting of trees that are necessarily removed during construction, development or redevelopment.
- (3) Provide for the preservation and protection of larger native or established trees, which provide a valuable amenity to the urban environment and which, once destroyed, can only be replaced after generations, if at all.
- (4) Provide for shade, windbreaks, and the cooling of air thereby, reducing the requirements for air conditioning, heating, and the unnecessary use of scarce energy sources.
- (5) Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.
- (6) Prevent the clearcutting of land.
- (7) Preserve the atmosphere and natural environment that define the community character of the city and make it unique and desirable.
- (8) Mitigate the ill effects of rapid and intense urbanization.
- (9) Prevent the unwarranted removal of protected, specimen, majestic or historic trees within the city.
- (10) Preserve existing trees and encourage planting of new trees to provide environmental elements necessary to protect and preserve watersheds in the city limits by reducing the amount of pollutants, runoff, and sediment entering streams within such watersheds.

- (b) Definitions. The following terms when used in this section shall have the meanings ascribed to them below:

BIG TREE REGISTRY - The most current edition of the Big Tree Registry as published by the Texas A & M Forest Service. If a circumference is listed in the Big Tree Registry, the circumference value shall be converted to a diameter for classification purposes.

CALIPER - The diameter of a tree.

HISTORIC TREE - A tree of notable historic interest and value to the city or county because of its location or historical association with the community is designated as a historic tree by the city council or county commissioners court after a public hearing and due notice of such to the property owner where the tree is located.

PLATTED LOT - A discreet parcel of land defined by a unique block and lot number, by a tract and lot number, or by a subdivision name and lot number and is recorded in the county recorder's office.

PROTECTED, SPECIMEN, AND MAJESTIC TREES - Any existing living tree of a species or type, except Chinaberry, Hackberry, Ashe Juniper (a.k.a. Mountain Cedar), Chinese Tallow, and Mesquite, possessing the characteristics described in subsection (h) below.

REPLACEMENT TREE - A tree meeting the specifications in subsection (h), below, that is planted, replanted, relocated, or left in place for the purposes of mitigation under subsection (i).

REMOVE OR REMOVAL - To eliminate, or the elimination of, a tree by any means from a site or an act that causes, or may be reasonably expected to cause, a tree to die. Such acts include, but are not limited to: uprooting; severing the main trunk; damaging the root system; and excessive pruning.

- (c) Prohibited activities. It is unlawful for any person to do, or cause, direct, or allow another person to do, any of the following:

- (1) remove any tree without a tree removal permit or in a manner that is inconsistent with a tree removal permit.
- (2) plant, replant, or relocate any replacement tree or any protected, specimen, or majestic tree without a tree removal permit or in a manner that is inconsistent with a tree removal permit.
- (3) continue removal, planting, replanting, or relocation of trees after the city manager has issued a stop-work order.

- (4) prune any tree in a manner inconsistent with this Section 10.04.011.
 - (5) remove any protected, specimen, majestic, or historic trees from any lot or site within the corporate limits of the city before the issuance of a building permit relating to the lot or site.
 - (6) take any action prohibited, or fail to take any action required, by this section.
- (d) Applicability. This Section 10.04.011 only applies to real property within the city's corporate limits and that is the subject of any one or more applications for subdivision of land and land development, including but not limited to an application for a development plat.
- (e) Exceptions. The following exceptions from the terms and provisions of this section are hereby authorized and granted:
- (1) Platted lots with an owner-occupied single-family residence are exempted from these requirements. However, builders, contractors, and owners are subject to the requirements established herein for all new construction prior to the owner moving into the completed residence.
 - (2) Trees removed in the building footprint, being the horizontal area measured on the outside of the exterior walls of the ground floor of the main structure, plus ten feet of single-family residential structures and commercial structures are not required to be mitigated. Building footprint includes attached structures such as a deck, patio, or garage, but does not include walkways, driveways, pools, parking lots, or detached structures; provided however, that the exemption provided by this paragraph does not apply to majestic trees or historic trees within the building footprint plus ten feet of commercial structures and such majestic and historic trees remain subject to all provisions of this ordinance.
 - (3) Unplatted parcels larger than 4 acres with an owner-occupied single-family residence are exempt from these requirements. However, the owner must provide prior written notice to the city manager before the removal of more than three (3) protected, specimen, majestic, or historic trees.
 - (4) The city manager may issue a written authorization allowing a protected, specimen, majestic, or historic tree to be removed without obtaining a written permit as herein required if any protected, specimen, majestic, or historic tree shall be determined in writing by a certified arborist, landscape architect, or other professional to be:

- (1) injured, dying, diseased, or infested with harmful insects; (2) in danger of falling; (3) interfering with utility service; or (4) creating a hazardous or dangerous condition so as to endanger the public health, welfare, or safety.
- (5) During the period of an emergency, such as a tornado, storm, flood, or other act of God, the requirements of this section may be waived as may be deemed necessary by the city manager.
- (6) All licensed plant or tree nurseries are exempt from the terms and provisions of this section only in relation to those trees planted and growing on the premises of said licensee that are so planted and growing for the sale or intended sale to the general public in the ordinary course of business.
- (7) The City of Smithville is exempt from the tree permit requirements for all utility work. All other utility companies authorized to provide utility service may remove protected, specimen, majestic, or historic trees without mitigation upon receiving written approval for such removal from the city manager. The utility company must demonstrate that nonremoval of protected, specimen, majestic, or historic trees would endanger public safety and welfare by interfering with utility service and that the removal is the minimum necessary for the utilities to function properly and no other alternative is available. This section does not apply to a private property owner extending utilities to private property.
- (8) The mowing, clearing, and grubbing of brush located within or under the drip lines of protected, specimen, majestic, or historic trees shall be allowed, provided such mowing, clearing, or grubbing is accomplished by hand tools or by mowers. The use of bulldozers, loaders, or other construction or earth moving equipment for this purpose is prohibited.
- (9) This section does not apply to the portion of property owned by a political subdivision of the state necessary for the construction of recreational uses, such as golf courses and baseball, soccer, football or similar athletic facilities; public works projects such as water or wastewater treatment plants, pump stations, or storage tanks; public streets; and drainage improvements and sufficient adjacent area to allow the normal operation of construction equipment.
- (10) The city manager may, when no other alternative is available, exempt certain easements and rights-of-way included on a plat approved by the city or county and

filed in the plat records of the county provided that the applicant demonstrates that the removal is necessary for the rights-of-way and easements to function properly.

(f) Permits.

- (1) The application for a tree removal permit shall include the following information:
 - (A) Location of all existing or proposed structures, improvements such as streets, alleyways, and site uses properly dimensioned and referenced to property lines, setback, and yard requirements.
 - (B) Date, scale, north point, and the names, addresses, and telephone numbers of both property owner and the person preparing the plan.
 - (C) Location of existing and proposed utility easements and drainage easements on the lot.
 - (D) Location and dimensions of visibility triangles on the lot.
 - (E) A tree survey by a Texas licensed land surveyor locating protected, specimen, majestic and historic trees and their driplines on the site. Protected, specimen, majestic and historic trees to remain shall be clearly identified. Trees to be removed shall be identified by gray scale lines and a reason stated for the removal of such trees. Each tree shall be numbered referencing a legend specifying the caliper, common name, and whether it is protected, specimen, majestic, or historic.
 - (F) As an alternative to the tree survey requirements of this section, for single-family residential lots of 10 acres or less, the application for a tree removal permit may instead include a listing of all protected, specimen, majestic, and historic trees to be removed. The listing shall include each tree's caliper size as measured according to subsection (h) and the reason for removal. This alternative for single-family residential lots of 10 acres or less shall be allowed to an individual lot owner or applicant for no more than one lot in any 12-month period unless a variance in the number of lots or frequency is reviewed by the planning and zoning commission and approved by the city council.
 - (G) If tree relocation is requested, a tree relocation plan that exhibits the current location of protected, specimen, majestic, and historic trees proposed for replanting and indicate the proposed replanting location for each.
 - (H) If tree replacement is requested, a tree replacement plan that exhibits the location of proposed replacement trees and remaining protected, specimen, majestic, and historic trees. It shall include a legend indicating the common name, caliper size, and height of proposed replacement trees.

- (2) Application review. Upon receipt of proper application, the city manager shall review the application for compliance with the provisions of this article. Said review may include a field inspection of the site and the application may be referred to as such departments as deemed appropriate for review and recommendations. Following the review and inspection, the city manager will approve, disapprove, or approve with conditions the application in accordance with the provisions of this article and issue, refuse to issue, or issue with conditions a tree removal permit.
 - (3) Expiration. A tree removal permit expires one (1) year after its effective date, provided that the mitigation conditions in the permit remain in effect until the conditions are met. If the tree removal permit is issued related to a master development plan, then the tree removal permit expires when the master development plan expires.
 - (4) Application for Credit. To the extent that Section 212.905, Texas Local Government Code applies, an application for a tree removal permit is an application for credit pursuant to Texas Local Government Code § 212.905(c).
- (g) Tree Pruning Restrictions.
- (1) General. No protected, specimen, majestic, or historic tree shall be pruned in such a manner that would reasonably lead to the death of the tree.
 - (2) Allowed pruning. The city may approve pruning of a protected, specimen, majestic, or historic tree in cases where they must be strategically pruned to allow construction or demolition of a structure. All pruning of trees by franchise utility companies to ensure the safe operation of utility services shall be allowed. When allowed, all pruning shall be by approved arboricultural techniques designed to preserve and protect the pruned trees. This section is not intended to require a permit for reasonable pruning performed or contracted to be performed by the owner of the tree when unrelated to construction activity.
 - (3) Required pruning. The city shall have the right to prune trees overhanging public rights of way that interfere with visibility of any traffic-control device or sign or as necessary to preserve the public safety.
 - (4) Tree topping. It shall be unlawful for any person to severely cut back limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other acts of God, or certain trees under obstructions where other pruning practices are impractical may be exempted from this article at the determination of the city manager.
 - (5) Branch and root pruning of wounded trees. All broken branches and exposed roots two (2) inches in diameter or greater of protected, specimen, majestic, historic, and

replacement trees shall be cut cleanly. In the case of oak species, in order to prevent infection by oak wilt spores, wounds must be painted with an acceptable wound dressing within thirty (30) days.

(h) Tree Classifications.

- (1) Existing trees requiring mitigation shall be any existing living tree of a species or type, excluding Chinaberry, Hackberry, Ashe Juniper (a.k.a. Mountain Cedar), Chinese Tallow and Mesquite, that has or possesses each of the following characteristics or criteria:

TREE TYPE	SINGLE TRUNK CALIPER	MULTI-TRUNK CALIPER*	MINIMUM HEIGHT
Protected	6 inches or more	8 inches or more	12 feet
Specimen	Greater than 24" or 50% of state champion specimen in Big Tree Registry, whichever is less	N/A	N/A
Majestic	Greater than 36" or 75% of state champion specimen in Big Tree Registry, whichever is less	N/A	N/A

* Multi-Trunk caliper shall be calculated by taking the caliper of the largest trunk and adding 1/2 of the caliper values of each of the other trunks.

- (2) If a circumference is listed in the Big Tree Registry, the circumference value shall be converted to a diameter for classification purposes.
- (3) Diameters for existing trees shall be measured at four (4) feet above natural grade.
- (4) Replacement trees shall be sized in accordance with the caliper sizes established by the Texas Association of Nurserymen Grades and Standards and shall have a minimum caliper of four (4) inches and a minimum height of nine (9) feet. Replacement trees shall be limited to the following approved species:

COMMON NAME	SCIENTIFIC NAME
Live Oak	<i>Quercus virginiana</i>
Monterey Oak	<i>Quercus polymorpha</i>
Chinkapin Oak	<i>Quercus muehlenbergii</i>
Burr Oak	<i>Quercus macrocarpa</i>

Lacey Oak	Quercus laceyi
Texas Red Oak	Quercus texana
Cedar Elm	Ulmas crassifolia
Arizona Cypress	Cupressus arizonia
Montezuma Cypress	Taxodium mucronatum
Bald Cypress	Taxodium distichum
Pecan	Carya illinoesis
Uvalde Big Tooth Maple	Acer grandidentatum
Anacua	Ehretia anacua
Texas Mountain-Laurel	Sophora (Calia) Secundiflora

- (5) Replacement trees not listed above may be considered on a case-by-case basis by the city manager. Requests for alternative replacement trees must be submitted in writing with the permit application and such trees must meet the same dimensional requirements as listed herein.
 - (6) Existing trees not meeting the dimensional specifications of a protected, specimen, or majestic tree, but meeting the specifications for a replacement tree, may, and are encouraged to, be used as replacement trees in lieu of new plantings. Such trees may be left in place or relocated to another portion of the site.
- (i) Tree Removal and Mitigation Requirements.
- (1) No historic tree may be removed unless the exceptions in this code apply.
 - (2) No majestic tree shall be removed unless the exceptions in this code. Additional majestic tree removal may be allowed on a case-by-case basis. A separate permit is required for each majestic tree removed. The planning and zoning commission shall review each permit application for majestic tree removal and make a recommendation to city council. city council shall then approve or disapprove the permit. A 3:1 mitigation amount is required for any majestic tree removed.
 - (3) The total tree removal from the site cannot exceed 60% of the total caliper width of protected, specimen, majestic, or historic trees on the site.
 - (4) Any person removing protected, specimen, or majestic trees shall mitigate such removal by planting, replanting, relocating or leaving in place replacement tree(s) having a total caliper width equal to the total caliper width removed, plus any additional mitigation amount as stipulated in subsection (2) above, in accordance with the following:
 - (A) Property owner must fulfill 100% of tree removal mitigation requirements.

- (B) No more than 35% of the total replacement trees may be of the same species.
- (C) At least 50% of the replacement trees shall exceed six inches (6") in caliper width.
- (D) Within 60 days of the 1-year anniversary of completion of all work pursuant to a tree removal permit, the permittee shall provide a report from a certified arborist verifying the viability of all replacement trees. The permittee shall replace any replacement tree that dies within one (1) year of being planted. A new one-year warranty period starts for a tree used to replace a dead replacement tree and the permittee shall provide a report from a certified arborist verifying the viability of such replacement trees within 60 days of the 1-year anniversary of the planting of such replacement trees.
- (E) Replacement trees shall be dispersed throughout the site, particularly in parking lots, as much as possible with the exception of any utility easement areas. No replacement trees shall be planted in utility easement areas.
- (F) In lieu of providing replacement trees, a person may pay to the city an amount determined in accordance with this subsection, referred to herein as "cash in lieu." Up to 25% of the required replacement tree caliper may be paid as cash in lieu to the city unless insufficient land area exists as described in subsection (G), immediately below. Any such payments shall be deposited into a special account or fund and used by the city to provide or support supplemental landscape plantings in public areas of the city or acquire wooded property that shall remain in a naturalistic state in perpetuity. The fee-in-lieu amount is \$300 per caliper inch.
- (G) If insufficient land area exists to plant the required total caliper width of replacement trees as defined in this section, then the cash in lieu amount can be applied to up to 50% of the required replacement tree caliper. At the sole cost of the permittee, a certified arborist shall make a written determination of the maximum total caliper width of replacement trees that may be planted on the site.
- (H) Only those trees meeting and planted in accordance with the applicable Texas Nursery & Landscape Association Specifications Grades and Standards, or such other set of standards as designated by the city from time to time, shall satisfy the tree replanting requirements contained herein.

(j) Tree Protection Measures. The following tree protection measures are required:

- (1) Prior to construction or land development, four-foot-high (4') plastic (or equivalent) safety fencing shall be installed around the drip line of protected, specimen, majestic, historic, and replacement trees.
- (2) The cleaning of equipment or materials or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, and mortar is prohibited under the canopy or drip line of any protected, specimen, majestic, historic, or replacement tree or group thereof.
- (3) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any tree.
- (4) With grade changes of six inches (6") or greater, a retaining wall or tree well of rock, brick, landscape timbers, or other approved materials shall be constructed around the tree no closer than the drip line of the tree. The top of the retaining wall or tree well shall be constructed at the new grade.
- (5) Unless otherwise approved by the city, no construction or construction related activity shall occur under the drip line of any protected, specimen, majestic, historic tree, or replacement tree or group thereof. Furthermore, if a foundation, street or alley pavement, utility line, on-site sewerage facility, pool, tennis court, patio, sidewalk, drive, parking lot, or similar improvement must be constructed within the drip line of said trees, it shall be constructed, under the supervision of a certified arborist, no closer than five feet (5') from the trunk of such trees provided further that the portion of any driveway or parking lot constructed within the drip line of any protected, specimen, majestic, historic, or replacement tree or group thereof shall be constructed of pervious materials, such as pervious pavers or ecocrete, approved by the city manager.
- (6) Any trees removed during land development, construction, or construction-related activities shall be chipped or hauled off site.
- (7) The location of all proposed buildings and improvements shall be oriented to allow for the maximum preservation of protected, specimen, majestic and historic trees.
- (8) Site plans shall, to the extent practicable, accommodate existing trees by providing islands in parking lots and grading and landscaping surrounding structures.

(k) Violations and Penalties.

- (1) Any person that takes an action prohibited, or fails to take an action required, by this Section 10.04.011 shall be guilty of a misdemeanor. Each tree removed in

violation of this Section 10.04.011 constitutes a separate offense. Each day that such violation or failure exists, occurs, or continues constitutes a separate offense.

- (2) Any person that removes, or causes the removal of, any protected, specimen, majestic, or historic tree without a permit, or that injures, or causes the injury of, any protected, specimen, majestic, or historic tree because of failure to follow required tree protection measures such that the tree dies, or may reasonably be expected to die, shall be liable to the city for a civil penalty in the amount of \$1,000.00 per tree per day that the removal or injury to such tree is not remedied by complying with this Section 10.04.011. In lieu of a civil penalty, the city may require replacement trees as follows:

Tree Type	Replacement Trees
Protected	5 times the caliper inches removed
Specimen	10 times the caliper inches removed
Majestic/historic	15 times the caliper inches removed

(1) Appeals and Variances.

- (1) Any decision rendered by the city manager under this section may be appealed to the city council by any person, agent, or representative affected by such decision. Council will have the discretion to request a recommendation from planning and zoning prior to issuing a decision. Such appeal must be received within ten (10) days after the placement of a letter in the U.S. mail addressed to the address on the permit application or the address of the current owner of record in the county tax records which states the written decision which has been rendered by the city manager. Such appeal shall be filed in writing with the city manager specifying the grounds on which the appeal is based. The city manager shall transmit to the city council all documents pertaining to the appealed action. The city council shall hear the appeal at a city council meeting as soon as practicable thereafter to determine whether the decision of the city manager was in accordance with all ordinances and regulations. The decision of the city council shall be final.
- (2) A person may request a variance from this Section 10.04.011 in the same manner and subject to the same conditions as a variance to all other subdivision regulations.

ARTICLE 10.05 UTILITIES

Sec. 10.05.001 Utilities Generally

- (a) Generally. All lots must obtain water, wastewater, electricity, and garbage service from the city before a building permit will be issued.
- (b) Final Plat Required. No city utilities will be provided until the final plat has been recorded.
- (c) Costs. The developer will bear all costs associated with the extension of utilities to the development, including but not limited to mains, water storage tanks, lift stations, and other necessary facilities.

Sec. 10.05.002 Utility Certification

- (a) Certification Required. Any application for a plan or plat must include certifications from all public utilities that plan to serve the development. At a minimum, the developer must obtain certifications from the city's electricity, water, and sewer utilities.
- (b) Certification Contents. All public utilities that plan to serve the development must certify that:
 - (1) The utility has the authority to serve the development through a certificate of convenience and necessity or other authority.
 - (2) The utility approves of the utility dedications, construction plans, specifications, cost estimates, and other construction related submittals.
 - (3) The utility has the intent and the capacity to serve the development.

Sec. 10.05.002 Water System

- (a) Water lines required. The developer shall provide all water lines necessary to properly serve each lot of the subdivision or addition and ensure that existing and new water facilities can supply the required demand, including fire protection. The developer shall install all necessary on-site and off-site mains and shall extend service to all lots terminating with a meter stop and meter box. For the orderly extension of water lines as established in the water and wastewater master plan, the developer shall install water mains to the boundaries of his development for future connection by the development of the abutting land. Extension of service lines to multifamily and nonresidential lots may be postponed until development of the lot if a main is installed in the abutting right-of-way located on the same side of the street as the lot. The developer's engineer shall include a

statement with the water system plans that the system meets the requirements of this section and complies with the rules and regulations established by the TCEQ.

ARTICLE 10.06 CONSTRUCTION

Sec. 10.06.001 Generally

- (a) Generally. Except for minor plats as defined herein, a reproducible drawing and two copies of detailed construction plans including two-foot contours shall accompany the final plat and shall include cost estimates for all proposed site improvements to be installed by the subdivider. All plans and engineering calculations shall bear the seal and signature of an engineer.
- (b) Plan Contents. Plans shall include, but not be limited to, the following site improvements:
 - (1) Plans and profiles of streets, alleys, sidewalks, crosswalks, and monuments;
 - (2) Plans, specifications, profiles, location, dimensions, depth, and grade, as applicable, of all proposed sanitary sewer system improvements including, where appropriate, collection lines, manholes, cleanouts, treatment and disposal systems, and lift stations to be provided by the subdivider;
 - (3) Plans, specifications, profiles, location, dimensions, depth, and grade, as applicable, of all proposed water system improvements, including, where appropriate, water lines, fire hydrants, wells, reservoirs, storage facilities, treatment facilities, and pumping stations;
 - (4) Storm drainage data and proposed drainage structures, including calculations of stormwater flow, watershed area, percent of runoff, and time of concentration; and
 - (5) Erosion and sedimentation controls.
 - (6) Other information reasonably required by the city manager.

Sec. 10.06.002 Construction Guaranty

- (a) Guarantees. The subdivider shall file security and maintenance guarantees if all construction is not completed prior to requesting final plat approval. The security guarantee

shall be either money in escrow or a bond, irrevocable for a period of two (2) years from the date of approval of the final plat, in escrow or in a form approved by the city Attorney, in the amount equal to the estimated cost of constructing and installing all the improvements required by this Ordinance.

- (b) Failure to Make Improvements. In the event of failure of the subdivider to make such improvements, within two (2) years from the date of approval of the final plat, the subdivider's bond shall be encumbered so as to cause the improvements to be constructed and installed without cost to the city.

Sec. 10.06.003 Extension of Time to Complete Construction

Where good cause exists, the city council may extend the period of time for completion of construction for an additional period of time not to exceed six (6) months if the subdivider has not completed the required site improvements or completed such improvements in compliance with this Ordinance. No such extension shall be granted unless construction and maintenance guarantees as required herein have been provided by the subdivider covering the extended period of time.

Sec. 10.06.004 Site Improvements

All site improvements required within the boundaries of a subdivision shall be the responsibility of the subdivider to provide. Subdividers shall provide all improvements required and at a minimum the improvements required by this ordinance. Approval of plans and specifications for construction of improvements shall not relieve the subdivider of his responsibility for compliance with this ordinance or with the requirements of other local, county, state and federal authorities having jurisdiction. No improvements shall be accepted unless they conform to the standards and specifications of this ordinance. All improvements are subject to inspection by the city. All fees and costs associated with such inspection are payable by the developer.

Sec. 10.06.005 Acceptance of Construction

- (a) Acceptance Notification. The city's shall inspect such improvements upon completion of construction and shall notify the subdivider and the city attorney in writing as to his acceptance or rejection of the construction.
- (b) Rejection. The city's Engineer shall reject such construction if it fails to comply with the city's standards and specifications for construction of subdivision improvements. If construction is rejected, the city Attorney shall, on direction of the Council, proceed to enforce the guarantees provided in this Ordinance.

Sec. 10.06.006 Maintenance Guaranty

- (a) Guaranty Required. Prior to acceptance, the subdivider shall either deposit money in escrow or file with the Council a bond or other such guaranty acceptable to the Council, executed by a bank or a surety company holding a license to do business in the State of Texas, and acceptable to the Council, in an amount equal to ten (10) percent of the estimated construction cost of the improvements required, as estimated by the subdivider and approved by the city, conditioned that the subdivider will maintain such improvements in good condition and without cost to the city for a period of two (2) years after acceptance of completed construction. Such money in escrow or bond shall be approved as to form and legality by the city attorney.
- (b) Release of Guaranties. Security or maintenance guaranties shall not be released by the city until all the requirements for approval and acceptance of improvements have been met. If it becomes apparent that the subdivider is not going to complete the construction of any or all of the required improvements in accordance with the previously approved plans and Ordinance requirements, or to provide the necessary maintenance within the stipulated two (2) year period (or any extension thereof granted under this section), the city manager shall so inform the city council in writing, and the city council shall take necessary action against the guarantees and security posted by the subdivider to complete such construction or maintenance at no cost to the city. The city council may also file appropriate proceedings at law or in equity against the subdivider and the security as set forth above.

ARTICLE 10.08 NOTICE; VARIANCES

Sec. 10.08.001 Notice and Hearing Requirements.

- (a) Procedure. The procedure for preliminary plat approval, final plat approval, variances, and other approvals requiring notice and hearings is as follows:
 - (1) After the submittal of a complete application, the planning and zoning commission shall hold a public hearing concerning the application at the earliest practicable time, at which time parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Smithville. The planning and zoning commission shall make a recommendation to the city council for approval or denial of the application.
 - (2) Written notice of such public hearing [shall be] forwarded by the city secretary to owners (as the ownerships appear on the last approved ad valorem tax roll of such governing body) within two hundred (200) feet of the proposed subdivision not less

than fifteen (15) days prior to the date of such hearing. Such notice may be served by depositing the same, properly addressed and postage paid, in a post office within the city. For replats or resubdivisions, written notice shall be sent to owners of all lots in the immediate preceding subdivision plat provided, however, that if such immediate preceding subdivision plat shall contain more than one hundred (100) lots, such notice shall be mailed only to those owners of lots which are located within two hundred (200) feet of the lot or lots which are sought to be replatted or resubdivided.

(3) After the planning and zoning commission has made its recommendation to the city council, the city council shall hold a public hearing concerning the application at the earliest practicable time, at which time parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Smithville.

(b) Application Protest. If a protest against an application is signed by the owners of twenty (20) percent 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.

Sec. 10.08.002 Variances.

(a) Generally. In specific cases and after receiving a recommendation from the planning and zoning commission above, the city council may, in its sole discretion, authorize a variance of the application of the minimum standards herein established in harmony with their general purpose and intent.

(b) Criteria. No variance may be granted unless the city council finds all of the following:

- (1) There are special circumstances or conditions affecting the land involved such that strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land;
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (3) That granting the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and

- (4) That granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this ordinance.
- (c) Conditions; Modifications.
 - (1) City council may place conditions on the approval of a variance that it deems necessary or desirable in the public interest.
 - (2) City council may modify the variance requested and approve the modified version of the variance.
- (d) Ordinance. Variances may only be approved by written ordinance that includes the findings of the city council and the facts upon which such findings are based.
- (e) Fees. Each request for variances shall be accompanied by a fee consistent with the city's current schedule of fees.

§ 4.7 Short-Term Rentals.

4.7.1 General Provisions.

- A. Title. This section of the Code of Ordinances, City of Smithville, Texas is designated and may be referred to as the “Short-Term Rental Ordinance.”
- B. Purpose. The purpose of this section is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public through the regulation of short-term rental residential property. The intent of this section is to preserve the neighborhood character of residential subdivisions within the City of Smithville and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.
- C. Applicability. The provisions of this section apply to all property zoned or used for residential use.

4.7.2 Definitions. In this section, the following terms have that meaning ascribed to them below:

Advertise - The act of drawing the public’s attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental using any medium including but not limited to, newspaper, magazine, brochure, website, or mobile application.

Bedroom - The living area(s) of the dwelling unit intended as sleeping quarters.

Hosting Platform - A person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, services through which an owner may offer a short-term rental to an occupant, including but not limited to providing an online platform that allows an owner to advertise the premises through a website and by which the hosting platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be occupant pays rent directly to the owner or to the hosting platform.

Occupant - Any individual person, other than an owner, occupying a short-term rental, or any portion thereof. A person is not required to be paying rent, providing in-kind services, or named in any lease, contract, or other legal document to be considered an occupant.

Owner - Any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person, and the executor of the estate of such person if ordered to take possession of real property by a court.

Premises - means property, a lot, plot or parcel of land, including any structures or portions of structures thereon.

Short-term rental (STR) – A premises, or portion thereof, rented to occupants for a period of less than thirty (30) consecutive days. The definition of short-term rental does not include a Bed and Breakfast with a valid special use permit.

4.7.3 General Regulations.

A. Unpermitted Short-term Rentals Prohibited.

1. It shall be unlawful for any owner to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as a short-term rental unless such owner has valid, active short-term rental permit issued under this section.
2. It shall be an affirmative defense to a violation of this section that the occupant is a party to the sale of the premises and was occupying the premises pursuant to a written post-closing occupancy agreement.

B. Requirements for Hosting Platforms.

1. All hosting platforms shall provide the following information to any owner listing a short-term rental located within the City of Smithville through the hosting platform's service prior to the owner listing the premises:

THE CITY OF SMITHVILLE, TEXAS SHORT-TERM RENTAL ORDINANCE PROHIBITS THE SHORT-TERM RENTAL OF RESIDENTIAL PREMISES WITHIN THE CITY OF SMITHVILLE WITHOUT AN ACTIVE SHORT-TERM RENTAL PERMIT.

2. Notwithstanding any other provision of this section, nothing shall relieve any owner, person, occupant, or hosting platform of the obligations imposed by the applicable provisions of state law and the Code of Ordinances of the City of Smithville, Texas, including but not limited to, those obligations related to hotel occupancy taxes imposed by Article 11.04. For the purposes of Article 11.04, a short-term rental is a hotel. Further, nothing in this section shall be construed to limit any remedies available under the applicable provisions of state law and the Code of Ordinances of the City of Smithville, Texas.

C. Short-term Rental Permit Required. An owner who desires to use its premises as a short-term rental must have a valid, active short-term rental permit from the city

prior to using, allowing the use of, or advertising the use of said premises as a short-term rental. The City manager may place reasonable conditions on a short-term rental permit to ensure compliance with the provisions of this Section.

D. Expiration of Permit; Renewals. A short-term rental permit shall expire on the last day of the month one year after the date of issuance. No short-term rental permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. The city manager may place reasonable conditions on a short-term rental renewal permit to ensure compliance with the provisions of this section.

E. Permit Application Requirements.

1. Except as provided in this section, every application for a short-term rental permit must include the following information with such detail and in a form approved by the city manager:
 - a. The name, address, contact information and authenticated signature for the owner of the premises;
 - b. The name, address and contact information of the operator, agent if any, and designated local responsible party as required by this section;
 - c. The city registration number for payment of hotel occupancy taxes;
 - d. A plot plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental;
 - e. A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces and emergency evacuation routes;
 - f. Proof of insurance as required by this section;
 - g. The name and contact information for the property owner's association, if any, of which the premises is covered by the dedicatory instruments;
 - h. A copy of the proposed host rules for the short-term rental; and

- i. Such certifications deemed necessary and proper to ensure compliance with this Section.
 2. An application for a short-term renewal permit may be filed beginning thirty (30) days prior to expiration of a current permit. Every complete application for a short-term rental renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information, or that any updated information is accurate and complete. The city manager may require such certifications deemed necessary and proper to ensure continuing compliance with this Section.
 3. An application for a short-term rental renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection E of this Section.
 4. If a complete application for a short-term renewal permit is submitted less than thirty (30) days prior to expiration of the current permit, the city manager in his or her sole discretion may grant a one-time extension of the current permit not to exceed ten (10) days.
 5. Applications are not complete until all documentation required under this section is submitted, and until the full application and permit fees have been paid. Incomplete applications will not be accepted.
- F. Designation of Local Responsible Party Required. An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public. The owner or responsible party must be available to be reached in person or by phone at all times while occupants are on the premises of a short-term rental. If called, a local responsible party must be able to and shall be present at the premises within one (1) hour of call from the city. A local responsible party must be authorized to make decisions regarding the premises and its occupants.
- G. Proof of Insurance Requirement. It shall be unlawful for the owner of a premises operating as a short-term rental to operate without host protection or other liability insurance commensurate with the operations of the short-term rental that provides coverage of up to \$1 million per occurrence. A certificate of insurance must be on

file with the city. Proof of insurance shall be required at the time of application and notice of cancelation of insurance must be made to the city within 30 days.

- H. Inspection Requirement. No permit or renewal permit shall be approved for a short-term rental until the city has inspected the premises and found the premises to be in compliance with minimum health and safety requirements for use and occupancy. If a premises fails to pass an inspection, a reinspection fee may be charged for each subsequent inspection in accordance with the fee established by resolution.
- I. Permit Fees. A fee established by resolution of the city council will be charged to reimburse the city for all costs associated with the administration of this section.
- J. Hotel Occupancy Taxes; Occupancy History Requests. It shall be unlawful for an owner of a premises used for a short-term rental to fail to pay hotel occupancy taxes required under State law and Article 11.04 of the Code of Ordinances, City of Smithville, Texas. Upon request of the city, the owner of a premises used as a short-term rental shall remit, within 30 days, an accounting of all occupants who rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide the requested information in a timely manner.
- K. Short-term Rental Permit Nontransferable. A short-term rental permit is non-transferable and shall not be assigned nor transferred to another person or entity. Any attempt to transfer a permit or attempt to use another person's permit may be grounds for revocation of said permit. If any premises that is the subject of a short-term rental permit is conveyed from one owner to another, the premises may not be used for a short-term rental until a new permit is obtained.
- L. Number of Occupants Restriction.
 - 1. It shall be unlawful for an owner or person to rent, allow, provide, or advertise for the use of a premises by more than two (2) persons per bedroom, plus two (2) additional persons, when using the premises as a short-term rental.
 - 2. Regardless of the number of bedrooms at the premises, it shall be unlawful:
 - a. For more than twelve (12) persons (including children), to occupy a short-term rental at any one time; or
 - b. For the owner to allow, suffer or permit the number of occupants living, sleeping within, or possessing a short-term rental to exceed

the maximum occupancy shown on the short-term rental permit or renewal permit.

3. A visual inspection of more than twelve (12) persons by a city employee at the premises is prima facie evidence of violation of the occupancy restrictions in this section.

M. Parking Restrictions. The number of motor vehicles allowed at a short-term rental may not exceed the number of available off-street parking spaces. It shall be unlawful for an owner or person to permit, allow, or advise occupants to park more vehicles on the premises than the available off-street parking spaces, or to suffer or permit parking of vehicles on an unapproved surface. It shall be unlawful for an occupant of a short-term rental to park a motor vehicle on a residential street near a short-term rental. It shall be unlawful for an occupant of a short-term rental, or an owner thereof to allow an occupant, to park or occupy a motor home, recreational vehicle, boat, commercial vehicle, or otherwise prohibited motor vehicle on the premises of a short-term rental or on a residential street near a short-term rental.

N. Minimum Stay Requirement. It shall be unlawful for an owner to rent or lease a short-term rental for a period of less than 24 hours.

O. Physical Conversion of Premises Prohibited.

1. It shall be unlawful for an owner or person to convert a garage to living space, remodel, renovate, enlarge, or otherwise modify premises to add additional bedrooms for use as a short-term rental. Any addition of bedrooms to a premises within 1 year, either before or after, of the submittal of an application for a short-term rental is prima facie evidence that such bedrooms were added for use as a short-term rental.

2. It shall be unlawful for an owner or person to pave or otherwise cover pervious soil to create additional on-premises parking without prior approval from the City of Smithville.

P. Sound Equipment Restrictions. It shall be unlawful for an owner or occupant of a short-term rental to use or allow the use of amplified sound equipment that produces sound discernible beyond the property line of the premises between the hours of 10:00 p.m. and 9:00 a.m. During other times, sound levels must comply with Section 8.04.033 of the Code of Ordinances, Smithville, Texas.

- Q. On-premises Curfew Requirement. It shall be unlawful for an owner or person to allow the congregation of occupants outside the premises between the hours of 10:00 p.m. and 9:00 a.m.
- R. Trash Pickup Requirement. It shall be unlawful for an owner or occupant to place, or allow to be placed, trash on the premises before 7:00 PM the evening prior to scheduled pickup or on a day not scheduled for pickup by the city or its authorized solid waste transportation vendor.
- S. Advertising, Promoting, or Special Events Prohibited.
1. It shall be unlawful for an owner or occupant to advertise or promote a special event, or allow the advertising and promotion of a special event (e.g. banquet, wedding, reception, reunion, bachelor or bachelorette party, concert, or any similar activity that would assemble large numbers of invitees) to be held on the premises.
 2. It shall be unlawful for an owner or occupant to allow, suffer, or permit a special event as described to be held on the premises.
- T. Notice to Occupants. An owner or person operating a short-term rental shall provide a notice of instructions (also known as “host rules”) to occupants staying at the premises in a form developed by the city. The notice shall instruct the occupants as to all applicable city regulations pertaining to short-term rentals. These include, but are not limited to, occupancy restrictions, limits on parking, trash pickup, prohibitions on special events, limits on amplified sound, and curfew times.
- U. Permit Display Required. A copy of the approved short-term rental permit shall be posted at a conspicuous location inside the front entrance(s) to the short-term rental.
- V. Use of Unauthorized Permit Number Prohibited. It shall be unlawful for an owner or person to use, advertise or promote, or allow the use, advertisement or promotion of a short-term rental using a permit number not assigned to the owner or person, or to a different address, or to a different dwelling unit.

4.7.4 Administrative Procedures.

- A. Permit Revocation.
1. *Grounds.* Any permit issued hereunder may be revoked if the permit holder has:

- a. received more than two citations for violations of this section or any other provision of this Code of Ordinances within the preceding 12-month time period; or
 - b. failed or refused to comply with an express condition of the permit and remains in non-compliance ten (10) days after being notified in writing of such non-compliance; or
 - c. knowingly made a false statement in the application; or
 - d. otherwise become disqualified for the issuance of a permit under the terms of this section.
2. *Notice.* Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. If the registration holder is not an individual, then service can be made to either the agent of the owner or the local responsible party. Such service on either individual shall constitute as proper notice as required under this Section. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
 3. *Appeal hearing.* The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the city manager of their appeal from the order revoking said permit. The city manager shall provide for a hearing on the appeal in accordance with the provisions of this Section.
 4. *One-Year Waiting Period.* If an owner's short-term rental permit is revoked, no second or additional permit shall be issued for a short-term rental on the premises for one year of the date such permit was revoked.

B. Appeal of Permit Denial/Revocation.

1. Upon denial or revocation of a permit, the city shall notify the applicant or permit holder, in writing, of the reason for which the permit is subject to denial or revocation. To contest the denial or revocation of a permit, the applicant or permit holder shall file a written request for a hearing with the city secretary within ten (10) days following service of such notice. If no

written request for hearing is filed within ten (10) days, the denial or revocation is final.

2. The appeal shall be considered and decided within twenty (20) days of the date on which the notice of appeal was filed with the city.
3. The hearings provided for in this section shall be conducted by the city manager or hearing officer at a time and place designated by the city manager or the hearing officer. Based upon the evidence presented at such hearing, the city manager or the designated hearing officer shall sustain, modify, or rescind any notice or order considered at the hearing. A written report of the hearing decision shall be furnished to the applicant or permit holder requesting the hearing.
4. After the hearing, an applicant or permit holder whose permit was denied or revoked may appeal to the city council.
5. An appeal shall not stay the effect of the decision of the city manager unless otherwise directed by the city manager.

C. City Council Appeals.

1. All appeals to the council must be made in writing and received no less than ten (10) days after any final decision made by the city manager or the designated hearing officer.
2. The city council shall schedule the appeal hearing at the city council meeting immediately following the receipt of the appeal request or within twenty (20) days from receipt of the appeal request, whichever is later.
3. If the city council determines that the denial or revocation of the permit was authorized under this section or necessary to protect the health, safety, or welfare of the general public, the council shall affirm the denial or revocation of the application or permit.
4. The city council may consider any or all of the following factors when reaching a decision on the merits of the appeal:
 - a. The number of violations, convictions, or liability findings;
 - b. The number of previous permit revocations;

- c. The number of repeat violations at the same location;
 - d. The degree to which previous violations endangered the public health, safety, or welfare; and
 - e. Any pending action or investigation by another agency.
- 5. After the hearing, the city council shall issue a written order. The order shall be provided to the appellant by personal service or by certified mail, return receipt requested.
 - 6. The city council may affirm, reverse, or modify the denial or revocation of the permit. If affirmed, the order issued must state that the appellant is not eligible to receive a new permit for a short-term rental on the premises sooner than one year after the date of the order. If reversed, the permit shall be reinstated immediately, in the case of a revocation, or the permit shall be issued within three (3) business days, in the case of a denial.
 - 7. The determination of the city council shall be final on the date the order is signed.
 - 8. An appeal to the city council does not stay the effect of a denial or revocation or the use of any enforcement measure unless specifically ordered by the city manager.

4.7.5 Enforcement.

A. Discontinuance.

- 1. The owner of a short-term rental use that was not registered with the City of Smithville for hotel occupancy tax prior to the effective date of this section, and who is unable to obtain a permit for said use or fails or refuses to obtain a permit for the use following the effective date of this section, shall discontinue the short-term rental use within 90 days of receipt of a notice from the city.
- 2. The owner of a short-term rental use that was registered with the city of Smithville for hotel occupancy tax prior to prior to the effective date of this section, and who is unable to obtain a permit for said use or fails or refuses

to obtain a permit for the use following the effective date of this Section, shall discontinue the short-term rental use no later than 120 days from receipt of a notice from the city.

3. If the permit for a short-term rental use is not renewed, the owner shall discontinue the use no later than the date on which the existing permit or any extension thereof expires.

B. Penalties.

1. A person who violates any provision of this section by performing an act prohibited or by failing to perform an act required, or causes another to do so, is guilty of a misdemeanor. Each day on which a violation exists or continues to exist shall be a separate offense.
2. The city may collect a civil penalty for each violation of the terms of this section as authorized by Chapter 54, Texas Local Government Code. In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty of \$1,000 a day if it proves that:
 - a. the defendant was actually notified of the provisions of the ordinance; and
 - b. after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.
3. The provision of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by other city ordinances, county, or state law.