ORDINANCE NO. 2025-707

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS AMENDING THE ZONING ORDINANCE, CHAPTER 14A, SECTION 4.7, CITY OF SMITHVILLE CODE OF ORDINANCES, TO ADD REGULATIONS PERTAINING TO SHORT-TERM RENTALS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the proliferation of Short-Term Rental units in the City of Smithville has been a noteworthy development in the City of Smithville, which has presented several challenges to the City; and

WHEREAS, the City deems it advisable to require the display of the registration number of the Short-Term Rental unit in the City of Smithville to allow enforcement of various requirements in the City, including the payment of the City's Hotel Occupancy Tax; and

WHEREAS, the City staff has consulted with representatives of the online booking industry who have expressed their support for a provision relating to the display of registration numbers on their online booking pages and providing for those online booking platforms to pay to the City the Hotel Occupancy Tax associated with those bookings; and

WHEREAS, the implementation of these sections is expected to yield higher Hotel Occupancy Tax payments for units in the City of Smithville and enhance the registration of units in the City; and

WHEREAS, the Planning and Zoning Commission of the City of Smithville, Texas, and the City Council of the City of Smithville, Texas, in compliance with State law with reference to the zoning ordinance and zoning map of the City of Smithville, Texas, have given requisite notices by publication and otherwise; and

WHEREAS, after holding a due hearing and having received the final report of the Planning and Zoning Commission, the City Council of the City of Smithville has determined that amending the Zoning Ordinance of the City of Smithville, Texas, as set forth herein will further the health, welfare, and safety of the public; and

WHEREAS, the City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SMITHVILLE, TEXAS, THAT:

1. **Findings of Fact.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. **Enactment.** Chapter 14, Sections 4.7, Code of Ordinances, City of Smithville, Texas, is amended as set forth below, with insertions indicated by underlines (e.g. underlines) and deletions indicated by strikethroughs (e.g. ~~strikethroughs~~):

Chapter 14A, Section 4.7 is amended, reading as follows:

§ 4.7 Short-Term Rentals.

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, mobile application, or social media applications or websites.

Bedroom - The living area(s) of the dwelling unit that is designed and furnished for sleeping and which has proper egress as required by the International Residential Code.

Short-term rental hosting platform - A person or entity that participates in the short-term rental business by providing 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. The term "platform" means a listing service, internet website, mobile application, or other digital platform that receives a fee or otherwise financially benefits, directly or indirectly, for facilitating short term rental booking transactions. The term "platform" shall not include a multiple listing services internet website, mobile application, or other digital platform for licensed real estate professionals that does not facilitate short term rental booking transactions.

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) – means the rental for compensation of a dwelling or portion thereof for the purpose of overnight lodging for a period of not less than one night and not more than

twenty-nine (29) consecutive days other than ongoing month-to-month tenancy granted to the same renter for the same unit as their primary residence; provided that the term does not include hotel, motel, boarding house, bed and breakfast, or country inn uses.

4.7.3 General Regulations.

A. Unpermitted Short-term Rentals Prohibited.

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 a valid, active short-term rental permit issued under this section.

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 hotel occupancy taxes under Article 11.04, and for no other purpose, 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.

3. The short-term rental hosting platform shall remove the short-term rental listing within ten (10) business days following receipt of the city's notification requesting that a platform remove a short-term rental listing.

4. All short-term rental hosting platforms displaying listings of short-term rentals located in the city shall require owners or operators using the platform to include the certificate of registration number in any listing for a short-term rental on the

platform. The certificate of registration number shall be prominently displayed on the listing.

5. Short-term rental hosting platforms shall not list a short-term rental without a certificate of registration number issued by the city.

6. A short-term rental hosting platform that collects State Hotel Occupancy Tax shall collect City Hotel Occupancy Tax for Owners/Operators and remit to the City the applicable City of Smithville Hotel Occupancy Tax, as calculated on the amount the short-term rental guest pays to the short-term rental Owner/Operator for rent. To effectuate this provision, the City Hotel Occupancy Tax Code, Chapter 11, Article 11.04 shall apply to short-term rental platforms.

7. A short-term rental hosting platform that fails to comply with the requirements in this Article is subject to the applicable penalty provisions of the City Hotel Occupancy Tax Code, Chapter 11 Article 11.04.

8. Nothing in this ordinance will absolve the Owner/Operator from any duties or obligations which arise under Chapter 14A, Section 4.7 or Chapter 11 of the City of Smithville Municipal Code. Notwithstanding any other provision of this ordinance, payment of Hotel Occupancy Tax is the responsibility of the short-term rental Owner/Operator.

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.

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 secretary of their appeal from the order revoking said permit. The City Council shall schedule the appeal hearing as soon as practicable after receipt of the appeal. The City Council shall determine whether the revocation or denial of the permit was in error. The City Council shall issue a written order affirming or reversing the revocation or denial of the permit. Such determination by the City Council shall be final on the date the order is signed.

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.

5. The city shall notify and request that a platform remove a short-term rental listing from the platform if the short-term rental listing lacks a certificate of registration number, the short-term rental certificate of registration number is invalid, expired, or the certificate of registration has been revoked. The city's notification shall identify the short-term rental listing to be removed by its physical address and uniform resource locator (URL) and state the reason for removal. The platform shall remove the short-term rental listing within ten (10) business days following receipt of the city's notification requesting that a platform remove a short-term rental listing. All platforms displaying listings of short-term rentals located in the city shall require owners or operators using the platform to include the certificate of registration number in any listing for a short-term rental on the platform. The certificate of registration number shall be prominently displayed on the listing. Platforms shall not list a short-term rental without a certificate of registration number issued by the city.

3. **Repealer.** The provisions of this Ordinance are cumulative of all provisions of the City of Smithville Code of Ordinances; provided, however, all ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency leaving the remainder of such other ordinance, resolution, or parts thereof intact, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.

4. **Severability.** It is the intention of the City Council of the City of Smithville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional or invalid by final judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections..

5. **Effective Date.** This Ordinance shall take effect in 30 days and be in force for short-term rentals 120 days after enactment.

DULY PASSED AND APPROVED, on the 8th day of December, 2025, at a regular meeting of the City Council of the City of Smithville, Texas, which was held in compliance with the Texas Open Meetings Act, Chapter 551, Texas Government Code, at which meeting a quorum was present and voting.

APPROVED:

Sharon Foerster

Sharon Foerster, Mayor

ATTEST:

Jennifer Lynch, City Secretary