

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS AMENDING THE CODE OF ORDINANCES CHAPTER 2, SECTION 2-128 PARAGRAPHS (B) AND (C) RELATING TO PREREQUISITE FOR CLAIMANTS TO APPEAR BEFORE CITY COUNCIL PRIOR TO FILING A LAWSUIT, AND UPDATING THE ADDRESS FOR DELIVERY OF CLAIMS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels adopted an ordinance prior to 1961 that required a person who had a claim against the city to appear before City Council for their vote on the claim prior to filing a lawsuit which has not been enforced in decades; and

WHEREAS, the Texas Tort Claims Act governs claims and notices of such claims against governmental entities for property damage, bodily injury or death and the law does not require action by the governing body as a prerequisite to a lawsuit; and

WHEREAS, there is no benefit or efficiency in such a legal requirement for a claimant to meet as it only creates a burden on the claims process so that it should be amended to align with state law; and

WHEREAS, when claims are made against the city, the claimant must follow the notice provision of the ordinance for serving notice to the City of New Braunfels at city hall however, the address in the ordinance needs to be updated to 550 Landa Street; and

WHEREAS, these amendments are necessary to update the ordinance to reflect current practice and to align with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1. Amendment.

That City of New Braunfels Code of Ordinances, Chapter 2, Section 2-128, subparagraphs (b) is repealed and (c) is hereby amended as indicated below using strikeout font for deletions and underlined font for added language:

Sec. 2-128. Claims against city.

~~(b) No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall ever prove that previous to the filing of the original petition, the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.~~

~~(c)~~ (e) All notices required by this section shall be effectuated by serving them upon the city secretary at the following location: ~~424 S. Castell Avenue~~, 550 Landa Street, New Braunfels, Texas 78130, and all such notices shall be effective only when actually received in the office of the person named above.

SECTION 2: Repealer.

All provisions of the New Braunfels Code of Ordinances, or other ordinances, whether codified or uncodified, in conflict with the provisions of this ordinance are hereby repealed, and all other

provisions of the Code of Ordinances or other ordinances, codified or uncodified, not in conflict with the provisions of the ordinance shall remain in full force and effect.

SECTION 3: Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence paragraph or section of this ordinance.

SECTION 4: Savings Clause.

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

SECTION 5: Effective Date.

This ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this _____ day of _____, 2024.

PASSED AND APPROVED: Second reading this _____ day of _____, 2024.

CITY OF NEW BRAUNFELS

NEAL LINNARTZ, Mayor

ATTEST:

GAYLE WILKINSON, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney