

Ordinance 2024-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES, CHAPTER 118, SUBDIVISION PLATTING, TO IMPLEMENT CHANGES REQUIRED PURSUANT TO HB 3699 APPROVED IN THE 88TH TEXAS LEGISLATIVE SESSION AND SIGNED BY THE GOVERNOR, STREAMLINE PLATTING PROCESSES, REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels, Texas, has adopted a platting ordinance to provide for orderly development of land within its city limits and extraterritorial jurisdiction in accordance with Chapter 212 of the Texas Local Government Code and consistent with the city's comprehensive plan; and

WHEREAS, the City Council has appointed representatives to the Planning Commission to make final decisions or recommendations as outlined in the platting ordinance; and

WHEREAS, the Texas Legislature met in the 88th Legislative Session and approved HB 3699 which modified procedures for approval of plats across the state; and

WHEREAS, the City of New Braunfels staff met with nearby cities, and outside resources, to collaborate on necessary amendments to the platting ordinance to come into compliance with the new state law; and

WHEREAS, the New Braunfels Planning Commission held a public hearing on November 7, 2023 and recommended approval of the proposed amendments; and

WHEREAS, the New Braunfels City Council held a public hearing on said amendments to the platting ordinance on February 12, 2024; and

WHEREAS, the New Braunfels City Council finds that adopting modifications to the platting ordinance is necessary to be in compliance with state law, and to provide improved customer service, which is in the best interest of the citizens of New Braunfels, Texas. **Now therefore**,

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

SECTION 1

That Chapter 118, Subdivision Platting, be amended with additions as underlined and deletions as strikeouts as shown below:

Sec. 118-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Those terms not expressly defined in this section are to be defined in accordance with chapter 144, the zoning ordinance or other applicable ordinances of the city, or in the absence of such ordinances, then in accordance with customary usage in municipal planning and engineering practices.

Amended master plan means a master plan previously approved ~~by the planning commission~~ with major revisions that has been approved by the ~~Planning Commission~~ city.

Amended master plan (minor revisions) means a master plan, previously approved ~~by the planning commission~~ that has minor revisions approved by the ~~planning director or the Planning Commission~~ city.

City staff means employees of the City of New Braunfels assigned, designated and authorized by the City Manager to make the respective decisions or address the respective issues.

City standards means the city's standards and specifications, together with all tables, drawings and other attachments as may be approved by the council, ~~or the commission,~~ or the city staff, and those standards so approved shall become a part of this chapter.

Preliminary approval means approval expressed by the commission or the city staff as to the arrangement and approximate size of streets, alleys, parks, reserves, easements, blocks and lots indicated on a preliminary plat.

Sec. 118-11. Waiver.

- (c) *Zoning district change*. The ~~commission~~ city staff may consider a master plan or any type of plat simultaneously with a zoning district change application and may condition approval of a master plan or any type of plat upon final city council

approval of the zoning district change that would cause the master plan or plat to be consistent with the zoning.

Sec. 118-15. Right to deny.

The ~~city~~ ~~commission~~ may deny a plat and any approval pursuant to this chapter if the applicant does not submit an administratively or technically complete application in accordance with this chapter within the required time frames of the state statute, or pay ~~at~~ ~~he~~ full fee.

Sec. 118-21. General procedures.

(d) Processing of subdivision plats.

- (1) Pursuant to state statute, the Planning Commission shall consider residential replats, and the planning and development services department shall consider all other plats. Prior to submitting an application to have a plat considered by the city, the applicant shall secure letters of certification (LOCs) from all reviewing entities, including but not limited to the engineering division of the ~~public work~~ transportation and capital improvements department, water and wastewater utility providers, local counties and pertinent state agencies including the Texas Department of Transportation (TxDOT).
- (2) The applicant shall submit the plat with the planning and development services department in accordance with the approved ~~commission meeting~~ plat submittal calendar described in subsection (7). In addition, such plat shall be accompanied by an application, nonrefundable application fee and associated documents required on the application checklists including approved LOCs.
- (3) The planning and development services department shall conduct a completeness review of the application to ensure all required items are included. If the application meets the completeness review, the plat is considered filed on the final day of completeness review. If the application is incomplete, it will be returned to the applicant who may resubmit their application at a later time.
- (4) The planning and development services department will conduct a review of the plat as to its conformity with any associated master plan, the major thoroughfare plan, future land use plan, zoning ordinance, the city's comprehensive plan and the standards and specifications set forth in this chapter or referred to in this chapter, and other city ordinances.
- (5) The planning commission shall meet in accordance with the approved commission meeting calendar described in subsection (7).
- (6) If the ~~plat~~ ~~planning commission does is~~ not approved~~d~~, approved~~d~~ with conditions, or deni~~ed~~~~y the plat~~ within 30 days from the filing date the plat shall

be deemed to have been approved ~~by the planning commission~~. A certificate showing the filing date and the failure to take action thereon within the periods prescribed in this section shall, on demand by the applicant, be issued by the planning and development services department ~~commission~~. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval required in this section for recordation.

(7) Submittal and Meeting calendars.

a. The ~~commission~~ planning and development services department shall ~~approve~~ post a ~~meeting~~ plat submittal calendar for every calendar year for consideration of administratively approved plats. Such calendar shall prescribe at a minimum the "application deadline date" for submission of plats.

b. The Planning Commission shall approve a meeting calendar for every calendar year including the application deadline dates and the "commission's meeting date" on which non-administrative plats will be considered.

Sec. 118-22. Subdivision master plan.

~~(d)~~ (c) *Application and fees.*

- (1) Formal application for master plan approval shall be made to the ~~planning director~~ city by the applicant on forms prescribed by the planning and development services department ~~director~~.
- (2) The master plan shall be submitted ~~to the planning director~~ in sufficient copies as determined by the planning and development services department ~~director~~.
- (3) The master plan shall be accompanied by an application fee as set out in appendix D of the City Code, which is nonrefundable.
- (d) Layout. The overall layout if approved by the planning and development services department shall be maintained in the city's records in accordance with state statutes. Thereafter plats of subsequent units of such subdivision master plan shall conform to the approved overall layout unless changed ~~by the planning director or the planning commission~~ as provided for in this chapter. Approval of a subdivision master plan shall not constitute automatic approval of the preliminary or final plat.

Sec. 118-23. Preliminary Plat – Optional.

- (a) The applicant may cause to be prepared a preliminary plat by a surveyor in accordance with this chapter. The preliminary plat and final plat and all accompanying data may be submitted together, or the applicant may submit a final plat and all accompanying data required by this chapter without submitting a preliminary plat.

(b) Application and fees.

- (1) Formal application for preliminary plat approval shall be made to the ~~planning and development services department-city~~ by the applicant on forms prescribed by the planning ~~director~~and development services department.
- (2) The preliminary plat shall be submitted ~~to the planning director~~ in sufficient copies as determined by the planning ~~director~~and development services department along with the required preliminary street, utility and drainage layouts in accordance with the ~~planning commission's meeting calendar as approved by the commission~~ plat submittal calendar.
- (3) The preliminary plat shall be accompanied by an application fee as set out in appendix D of the City Code, which is nonrefundable.

Sec. 118-24. Form and contents.

- (15) Additional information as may be required by state ~~law, the planning director, city engineer, or the commission~~ statute, the planning and development services department, or the transportation and capital improvements department.

Sec. 118-26. Processing of preliminary plat.

- (d) The planning and development services director may upon application extend approval for an additional 12 months. At the end of this 12-month extension, the preliminary plat approval shall ~~expire~~be revoked in writing by the city to the applicant unless extended by the planning commission.

Sec. 118-28. Filing and fees.

- ~~(b) Copies of the final plat in sufficient quantities as determined by the planning director shall be tendered to the planning director in accordance with the commission's approved plat submittal meeting calendar.~~
- ~~(e)~~ The final plat shall be accompanied by an application fee as set forth in appendix D of the City Code, which is nonrefundable.
- ~~(d)~~ If the applicant proposes street names whose names have not been previously approved by the applicable street name approval authorities, the application shall

include a street name approval letter from the applicable street name approval authorities.

- (ed) An application for a final plat for a subdivision that requires public improvements shall be accompanied by a letter of approval from the city engineer and/or the public works director approving the construction plans showing details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other engineering details of the proposed subdivision. Such plans shall be prepared by a registered professional engineer and shall conform to the standard specifications established by the city. The letter of approval will serve as the required LOC for the engineering division, water and wastewater utility providers and the Texas Department of Transportation.

Sec. 118-30. Certificates and statements.

- (d) A certificate of approval and acceptance by the ~~planning commission~~ city shall be placed on the subdivision plat, as follows:

1) For administratively approved plats:

Approved this the _____ day of _____, 20_____, by the ~~Planning Commission of the~~ City of New Braunfels, Texas.

	<u> </u> <u> </u> Chairman
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Approved for Acceptance

<u> </u> Date	<u> </u> Planning and Development Services Director
<u> </u> Date	<u> </u> City Engineer
<u> </u> Date	<u> </u> New Braunfels Utilities

2) For non-administrative plats:

A certificate of approval and acceptance by the planning commission shall be placed on the subdivision plat, as follows:

Approved this the _____ day of _____, 20_____, by the Planning Commission of the City of New Braunfels, Texas.

	<u>Chair</u>
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Approved for Acceptance

<u>Date</u>	<u>Planning and Development Services Director</u>
<u>Date</u>	<u>City Engineer</u>
<u>Date</u>	<u>New Braunfels Utilities</u>

Sec. 118-32. Processing of final plat.

- (a) Processing. Final plats shall be processed in accordance with section 118-21.
- (b) Approval or conditional approval of a final plat shall be effective for five years. The plat shall expire and be void within five years of approval ~~by the commission~~ if progress toward completion is not being made. Progress towards completion of the development for which the final plat was approved includes the following:

- (c) The planning and development services director may upon application extend approval of a final plat for an additional 12 months. At the end of this 12-month extension the final plat ~~shall expire approval shall be revoked in writing by the city to the applicant~~ unless:
 - ~~(1) Extended by the planning commission upon application by the applicant in accordance with the planning commission approved meeting schedule;~~
 - (12) Subdivision development has begun; or
 - (23) Surety has been provided for in accordance with this chapter.
- (d) Revisions to an approved final plat prior to filing at the county. Occasionally minor revisions are needed before the final plat can be filed at the applicable county(s). Such minor revisions as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the record plat prior to filing it without the planning commission or city having to re-approve the final plat. An applicant may submit an application for a determination of whether or not revisions are "minor" in nature which is subject to the judgment of the city's planning director and the city engineer. Revisions such as obvious corrections, reconfiguration of lot lines or easements, relocation of roads or driveways or access easements, any modification to the perimeter or boundary of

the property, and relocation or addition or deletion of any public improvement (including corresponding easement), may necessitate re-submission and re-approval of the plat as a "revised final plat" unless otherwise approved by the planning director and the city engineer as applicable. If the planning director or city engineer considers s revisions to be other than minor revisions the plat shall be re-submitted to the ~~planning commission city~~ as a "revised final plat".

Sec. 118-34. Replatting.

- (c) Public hearing. In addition to compliance with subsection (b), a public hearing is required as follows:

- (4) If the proposed residential replat requires a waiver and the property owner(s) of 20 percent or more of the total land area of lots to whom notice is required to be given under subsection (b) file with the city a written protest of the replatting before or at the public hearing, ~~and the replat~~ then approval of the replat will require the affirmative vote of at least three-fourths of the commission members present. For a legal protest, written instruments signed by the owners of at least 20 percent of the total land 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 city prior to the close of the public hearing. In computing the percentage of land area subject to the "20 percent rule" described above, the area of streets and alleys shall be included.
- (d) Any replat that adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed "purpose for replat" statement.
- (e) If the previous plat is vacated as prescribed in ~~V.T.C.A.,~~ [Texas](#) Local Government Code § 212.013, as amended, and as provided in this chapter, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a "preliminary or final plat" and reviewed accordingly.
- (f) The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
- (1) Replats not requiring a public hearing ~~may shall~~ be considered ~~for approval~~ by the planning and development services department. ~~The planning director may, for any reason, elect to present the replat to the planning commission for consideration and approval. Should the planning director believe he/she is unable to approve the replat, then the plat shall be referred to the planning commission for review and approval within the time period required by state law.~~

- (2) Replats requiring public hearings shall be considered by the planning commission.

Sec. 118-35. Amending plats.

- (b) The planning ~~director~~ and development services department may approve an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

- ~~(c) The planning director may approve amending plats. The planning director may, for any reason, elect to present the amending plat to the planning commission for consideration and approval. Any decision made on the amending plat by the planning director shall be approval of the plat. Should the planning director refuse to approve the amending plat, then the plat shall be referred to the commission for review and approval within the time period required by state law.~~
- ~~(d) Notice, a public hearing, and the approval of other lot owners is not required for the approval and issuance of an amending plat.~~
- (~~e~~) The amended plat shall be entitled and clearly state that it is an "amended plat", and it shall include a detailed "purpose for amended plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and recorded at the applicable county. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- (~~f~~) The amending plat shall be recorded at the applicable county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the city, and if the plat is not recorded at the applicable county within the time periods specified for a final plat.

Sec. 118-36. Minor plats.

- (b) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by all items required by the ~~planning director~~ city, including the required number of copies of the plat, a completed application form, and the required application fee.
- ~~(c) Upon receipt of a favorable recommendation for approval by the city engineer, the planning director may approve, or approve with conditions a minor plat, or may for any reason elect to present the minor plat to the planning commission for~~

~~consideration. The planning director may not deny a minor plat. Should the planning director believe he/she is unable to approve the minor plat, then the plat shall be referred to the planning commission for review and approval within the time period required by state law.~~

~~(d) Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat.~~

(ec) The minor plat shall be entitled and clearly state that it is a "minor plat."

(fd) The minor plat shall be recorded at the applicable county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city and if the plat is not recorded at the applicable county within the time periods specified for a final plat.

Sec. 118-37. Development plats.

(d) *Exceptions.* No development plat shall be required where:

- (1) The tract to be developed has received final plat or replat approval or was created prior to the effective date of this chapter, or
- (2) A subdivision plat is also required under the ordinances of the city.

~~The planning commission may from time to time exempt other development or land divisions from the requirements of this section.~~

(e) *Prohibition on development.* No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued for any development or land division subject to this section, until a development plat has been reviewed and approved by the ~~planning commission, or the planning director if a minor plat~~ city, and filed of record at the applicable county.

(f) *Standards of approval.* The development plat shall not be approved until the following standards have been satisfied:

- (1) The proposed development conforms to the comprehensive plan, plans, rules and ordinances of the city concerning its current and future streets, sidewalks, alleys, and public utilities facilities;
- (2) Public dedications to serve the development have been tendered; and
- (3) The proposed development conforms to the general plan, rules and ordinance of the city that are related to development of a land parcel not otherwise subject to the city's platting requirements.

(g) *Conditions.* The ~~city planning director, in the case of a minor plat, or otherwise the planning commission,~~ may impose such conditions on the approval of the development plat as are necessary to insure compliance with the standards in subsection (f).

(h) *Approval procedure.* The application for a development plat shall be submitted to the city in the same manner as a final plat and shall be approved, conditionally

approved, or denied by the planning and development services department
~~commission or the planning director, if a minor plat,~~ in a similar manner as a final plat. Upon approval, the development plat shall be recorded at the applicable county in the same manner as prescribed for a final plat. Approval of a development plat shall expire if all filing materials are not submitted to the planning and development services department, and if the plat is not recorded at the county within the time periods specified for a final plat.

Sec. 118-38. Guarantee of performance; inspection and acceptance of public improvements, licensing.

- (p) Acceptance of dedication offers. Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the city engineer. The approval by the city ~~planning commission~~ of a preliminary or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the city of any public improvements required by the plat. The city may require the plat to be endorsed with appropriate notes to this effect.

Sec. 118-39. Deferral of required improvements.

- (a) The planning ~~commission~~ and development services department may upon petition of the property owner and favorable recommendation of the city engineer defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as in its judgment, are not required in the immediate interests of the public health, safety and general welfare.
- (b) Whenever a petition to defer the construction of any public improvements required under this chapter is granted by the city ~~planning commission~~, the property owner shall deposit in escrow with the city their share of the costs of the future public improvements as approved by the city engineer prior to filing of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the city.

Sec. 118-40. Recordation.

- (a) After approval of any final plat by the city staff or planning commission and construction plans by the city engineer and New Braunfels Utilities or other utility, the city staff ~~planning commission~~ shall ~~cause the city to~~ record such final plat with the appropriate county clerk upon the applicant's performance of one of the following:
 - (1) Completion of the construction of required improvements prior to recordation in compliance with this chapter.

- (2) Filing of security in lieu of completing construction prior to recordation in a form approved by the city attorney, and in compliance with this chapter.

Sec. 118-43. Generally.

- (a) *Conformity to design requirements.* No plat shall be approved by [the city staff or](#) the planning commission, and no completed improvements shall be accepted by the city engineer, unless they conform to the following design requirements and applicable standards, or unless waived ~~by the planning commission~~ in accordance with section 118-11. Although the intention of this section is to establish uniform design standards, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used if approved by the city engineer.

Sec. 118-45. Lots.

- (c) Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the city's limits) and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when rear alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated or tapered, "flag" or "panhandle" lots should be avoided. The [city staff or](#) planning commission reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

- (e) Extra depth and width in certain cases. Where a lot in a one, two or multifamily residential area backs up to a railroad right-of-way, a high-pressure gasoline easement, oil or gas line easement, electric transmission lines (69 kv or higher) easement, an arterial street, an industrial area or other land use which may have a depreciating effect on the residential use of the property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the [city staff or](#) planning commission. In no case shall a depth in excess of 140 feet be required. Where a lot sides to any of the above-described cases, additional width may be required by the [city staff or](#) planning commission, but in no event shall a width in excess of 75 feet be required.

Sec. 118-46. Streets.

(a) *Street layout.* Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade and location of each shall be considered in their relation to existing and planned streets, topographical conditions, public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. Local residential streets should be laid out so as to discourage their use by through traffic. A waiver may be considered for local residential streets as defined in subsection (s) that may curve, meander, and otherwise deviate from the radius and tangent requirements set forth in subsection (s) when:

- (1) The developer's engineer designs streets that meet recognized standards, and
- (2) The planning commission [or city staff](#) determines that such design is not contrary to the best interest of the city and the users of its street system.

(b) *Streets on city comprehensive plan or thoroughfare plan.*

- (2) Whenever a tract to be platted borders on or embraces any part of any street shown on the thoroughfare plan, such part of such proposed street shall be shown on the master plan or the plat. All arterial and collector street locations, alignments, right-of-way widths, pavement widths, and cross sections shall be determined by the [city staff](#), planning commission and city council in accordance with its adopted thoroughfare plan.

(k) *Culs-de-sac.* A cul-de-sac shall not be more than 1,000 feet in length unless:

- (1) A "turn around bubble" is provided in accordance with this chapter, or
- (2) It is recommended by the city engineer and approved by the [city staff or](#) planning commission for specific reasons of topography or engineering design.

All culs-de-sac longer than 1,000 feet shall have a "turn around bubble" with the same radius and driving surface noted above located at least every 1,000 feet. "T" or "hammerhead" turnarounds may be approved by the [city staff or](#) planning commission if recommended by the city engineer.

All cul-de-sac streets greater than 150 feet from the centerline of the cross street's pavement to the center point of the cul-de-sac turnaround shall be designed with a minimum right-of-way radius of 65 feet and a minimum driving surface radius of 55 feet. Cul-de-sac streets less than or equal to 150 feet shall be designed with a minimum right-of-way radius of 58 feet and a minimum driving surface radius of 48 feet. Larger culs-de-sac may be required dependent on the development as recommended by the city engineer and approved by [the city staff](#), planning commission and city council.

- (q) *Non-access easement.* Where deemed necessary by the [city staff or](#) planning commission, a vehicular non-access easement may be required on a lot or lots for the purpose of controlling ingress and egress to vehicular traffic.
- (r) *Additional right-of-way.* Where deemed necessary by the [city staff or](#) planning commission, a subdivider may be required to dedicate or reserve additional right-of-way on any street or thoroughfare within the city or its extraterritorial jurisdiction, if such dedication or reservation does not result in a disproportionate burden on the property owner or his property.
- (s) *Pavement and rights-of-way widths, street grades and horizontal curves for public streets.* Pavement widths shall be measured from the face of one curb to the face of the other curb. Pavement and rights-of-way widths, street grades, horizontal curves and sidewalks shall be in accordance with the adopted regional transportation plan and as follows, unless an exception is granted by the city council after review and recommendation by [city staff or](#) planning commission and the city engineer:

- (t) *Responsibility for right-of-way dedication and public street construction.*
 - (1) *Internal streets.*
 - a. The developer shall be responsible for the dedication and construction of all local and collector streets within his subdivision at his own expense. The developer may also be required to construct at least two lanes of an arterial street, if such is supported by a traffic impact analysis (TIA), and if such construction does not impose a disproportionate burden on the property owner or his property.
 - b. The developer may be required to dedicate additional ROW and construct additional lanes of an arterial street or TxDOT road based on the [city staff or](#) planning commission review of a traffic impact analysis (TIA), and if such construction does not impose a disproportionate burden on the property owner or his property.
 - c. The ~~planning commission~~[city staff](#) may allow in lieu of construction an escrow be deposited for a period no longer than ten years equal to the developer's roughly proportionate share of the cost of constructing streets, the value of which shall be approved by the city engineer.
 - d. Streets shall be constructed in accordance with this chapter.

(2) *Perimeter streets.*

- c. Adequate access.
 - 1. All subdivisions shall have access to an adequate perimeter or approach street. An adequate perimeter or approach street is a dedicated public street that has an average pavement width of at least 24 feet adjacent to the area being platted, even though such pavement is not to city

standards at the time of platting. If the approach or perimeter street is adequate, the developer shall not be required to build additional approach or perimeter streets, but shall be required to dedicate or reserve right-of-way according to this section. If a subdivision does not have access to an adequate perimeter or approach street, as defined above, the [city staff or](#) planning commission may deny the plat, the developer may construct an adequate street as determined by the [city staff or](#) planning commission, or the developer may offer to enter into a development agreement with the city for sharing in the cost of constructing an adequate street. Such development agreement may be approved by the city council.

2. If there is more than one perimeter or approach street adjacent to the area being platted, at least one of those streets must be adequate, or be constructed to be adequate, and improvement of the other(s) perimeter or approach street(s) is (are) not required to be adequate. However, right-of-way shall be dedicated or reserved according to this section for all perimeter or approach roads.
 3. If the area being platted has adequate access but is adjacent to other inadequate perimeter or approach street(s), the developer may either improve the inadequate street(s) to city specifications in the area adjacent to the area being platted or not take access to the inadequate street(s). The [city staff or](#) planning commission may require a "stub out" of an internal street to the inadequate perimeter or approach street and the developer may be required to provide a temporary turn around for a dead end street in accordance with this chapter.
 4. The construction of an adequate access shall be according to the standards of this chapter and chapter 114.
- d. Based on a traffic impact analysis, the [city](#) ~~commission~~ may require a developer to dedicate or reserve right-of-way and/or construct street improvements to mitigate adverse traffic impacts shown by the analysis which the [city staff](#) ~~commission~~ deems appropriate and roughly proportionate to the development's impact.

- (w) *Intersection improvements and traffic control devices.* Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by this section, or as may be required by the [city staff](#) ~~planning commission~~ for traffic safety and efficiency. Construction and design standards shall be in accordance with this chapter.
- (x) *Private streets.* The layout for new subdivisions with private streets may be approved at the time of master plan or plat approval. All private streets must be designated as a lot or lots on the subdivision plat and must be conveyed by the developer or owner to a homeowners' association or property owners' association. The subdivision plat shall provide a note that the street is a private street and shall be maintained by the homeowners' or property owners' association and that the city shall have no maintenance or repair responsibilities. The city may periodically inspect private streets and may require any repairs necessary to ensure efficient

emergency access and to protect the public health, safety, convenience and welfare. The following are the requirements for subdivisions with private streets:

- (1) *Private streets—Construction and maintenance cost.* The dimensional, but not structural, standards for private streets shall be designed by a licensed professional engineer, and do not have to meet the standards for public streets contained in this chapter, if a waiver of such standards is approved ~~by the commission~~ in accordance with this chapter. The city shall not pay for any portion of the cost of constructing or maintaining a private street. A HOA or property owners' association is required to maintain private streets.

- (4) *Private streets—Petition to convert to public streets.* The HOA or property owners' association may petition the city council to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. Such petition shall be submitted to the planning commission in accordance with the ~~commission's~~ [city's plat submittal](#) calendar for master plans and plats, who shall make a recommendation to the city council. However, in no event shall the city be obligated to accept said private streets as public streets. Should the city elect to accept the private streets as public streets, the city has the right to inspect the private streets and to assess the lot owners for: (i) the expense of improving the private streets to meet city standards for public streets and (ii) the expense of needed repairs, if any, prior to the city's acceptance of the streets. The city shall be the sole judge of whether improvements and/or repairs are needed. The city may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities, appurtenances or objects, located within the street lot or within any other common area.

Sec. 118-47. Alleys.

- (a) Alleys may be required in business and industrial areas. Alleys may be provided by the developer in residential areas. Alleys, if required or provided, shall be constructed at the expense of the developer and shall conform to the provisions of this chapter.
- (b) Dedicated alleys must be approved by the [city staff or](#) planning commission at the time of plat approval before they can become public alleys. Otherwise, they shall be treated as service drives or private alleys and the developer, HOA or property owners' association shall be responsible for maintenance.

Sec. 118-48. Utility easements.

- (b) Where easements are required for other than public utilities, then the location and width must be acceptable to the private utility company concerned with the approval of the [city staff or](#) planning commission

Sec. 118-50. Off-street bikeways and trails.

- (a) Off-street bikeways or trails shall be provided by the subdivider/developer as shown on the bikeway plan of the comprehensive plan and this section, if the city agrees to maintain the bikeway or trail.
- (b) The easement or right-of-way width and surface width of the bikeway or trail shall be determined by the planning commission [or the city staff](#) at the time of plat approval.

Sec. 118-51. Water, sewer and drainage facilities; flood hazards.

- (c) *Wastewater.* All subdivisions or developments shall be provided with a sewage disposal system constructed in compliance with this chapter and approved construction plans. Connection with the sanitary sewer system shall be required except where the city staff ~~planning commission, upon the recommendation of the planning director,~~ determines that such connection will require unreasonable expenditure, when compared with other methods of sewage disposal.
- (d) *Extension to adjacent development.* Wherever the subject property adjoins undeveloped land, or wherever required by the city staff, or the commission to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

Sec. 118-52. Escrow policies and procedures.

- (a) *Request for escrow.* Whenever this chapter requires a property owner to construct a street, sidewalk, drainage improvement, or other type of public improvement, the property owner may petition the city to construct the street or other public improvement, at a later date, in exchange for deposit of escrow as established in this Section, if there exists unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or the applicable county, that would present undue hardships or that would impede public infrastructure coordination or timing. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, for instance as demonstrated by a traffic impact analysis, the ~~planning commission~~ city staff may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The city engineer shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the city engineer's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street, sidewalk or other public improvement with his or her development.
- (b) *Escrow deposit with the city.* Whenever the city staff ~~commission~~ agrees to accept escrow deposits in lieu of construction by the owner of the property under this chapter, the property owner or developer shall deposit in escrow with the city an amount equal to his or her share of the costs of "turnkey" design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate inflation factor to be determined by the city engineer to ensure that the actual "future dollar" costs will be covered when actual bid pricing and construction

occur in the future. Such amount shall be reviewed by the city engineer, and shall be paid prior to release of construction plans by the city engineer, or if there are no construction plans, prior to recording the plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

Sec. 118-60. General requirements.

- (a) The city manager or his/her designee shall administer this article, with certain review, recommendation and approval authorities being assigned to the [planning and development services department, transportation and capital improvements department, the](#) planning commission, the parks and recreation advisory board and various city departments as specified herein.

SECTION 2

THAT, 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, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 4

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

SECTION 5

THAT in accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

SECTION 6

THAT this Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels, Texas.

PASSED AND APPROVED: First reading this the 12th day of February, 2024.

PASSED AND APPROVED: Second reading this the 26th day of February, 2024.

CITY OF NEW BRAUNFELS

Neil Linnartz, Mayor

ATTEST:

Gayle Wilkinson, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney