

ORDINANCE NO. 2024-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, REPEALING CHAPTER 102, ARTICLE II, OF THE CODE OF ORDINANCES RELATING TO JUNKYARDS AND AMENDING CHAPTER 50, ARTICLE II, AND CHAPTER 82 OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, after evaluating current licensing processes, the City Secretary's Office has recommended the required licensing process for businesses operating junkyards or vehicle storage facilities where properly zoned be removed.

WHEREAS, applicable language designating requiring standards for businesses operating as junkyards, as defined, be added to enforce proper building standards and safety.

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

I.

THAT the City of New Braunfels Code of Ordinances Chapter 102, Article II, is hereby repealed as follows with removed verbiage indicated by strikethrough:

~~ARTICLE II. JUNKYARDS¹~~

~~Sec. 102-26. Operation declared nuisance and prohibited unless licensed.~~

~~Any place used or maintained by any person as a junkyard or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any parts thereof, is hereby declared to be a public and common nuisance, and is prohibited within the city limits of the city, and for a distance of 5,000 feet outside the city limits of the city, unless such operation is conducted in the manner provided in this article, following the payment of a license fee and the issuance of a license as prescribed in this article.~~

~~(Code 1961, § 12B-1)~~

~~State law reference(s)—Extent of extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021.~~

~~Sec. 102-27. Application for license; standards for premises.~~

~~(a) Any person desiring to use or maintain any property within the city or for a distance of 5,000 feet outside the city limits for any of the purposes mentioned in section 102-26 shall make written~~

¹Cross reference(s)—Abandoned, wrecked and junked vehicles, § 82-6.

application to the city secretary for a license, which application shall set forth the name and address of the applicant, and a legal description of the property or premises upon which such business is to be conducted. When any such application has been made, the city secretary shall at once report the same to the chief of police, city sanitation officer, fire chief and building official. It shall thereupon become the duty of each of such city officials to inspect or cause to be inspected the place where a business as outlined in section 102-26 is to be carried on, determine whether such place of business complies with all applicable laws, ordinances, rules and regulations, and to report their findings to the city council.

- (b) ~~The place where a business as described in section 102-26 is conducted, and all buildings situated thereon, shall be so constructed and maintained that the business will be carried on in a safe and sanitary manner. No fire hazard shall be contained thereon, and such place of business shall be so arranged that a proper inspection may be made at any reasonable time by the duly authorized sanitation, fire, building and police authorities.~~

(Code 1961, § 12B-2)

~~Sec. 102-28. Use of fence or other enclosure required; height, maintenance.~~

~~Every place, other than inside an enclosed building, where a business as outlined in section 102-26 is conducted shall be enclosed by a solid screening fence or wall not less than seven feet in height. Such fence or wall shall be permanently and adequately maintained in good condition and no junk shall be piled or placed within such area so as to protrude higher than the wall or fence or protrude through or beyond the enclosure.~~

(Code 1961, § 12B-3)

~~Sec. 102-29. Issuance of license, fee; duration; renewal.~~

~~When an application has been filed with the city secretary as provided in this article, the city council shall have the power to either grant or reject such application. If the application is granted, a license to operate such business shall be issued by the city secretary upon the payment by the applicant of a fee of \$25.00 per annum. Any license so issued shall expire one year from the date the license is granted, but may be renewed from year to year in like manner as is provided for the original license.~~

(Code 1961, § 12B-4)

~~Sec. 102-30. Revocation of license.~~

~~The city council shall have the power to revoke the license provided for in this article at any time for good cause, but only after notice has been given to the owner or owners of the business of a hearing to be held not less than ten days after the service of such notice.~~

(Code 1961, § 12B-5)

~~Sec. 102-31. Penalty for violation of article.~~

~~Any person violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not to exceed \$500.00, and each day of such violation shall be and is hereby declared to be a distinct and separate offense and punishable as such. Whenever a corporation which cannot be arrested violates this article, the officer or servant authorizing or responsible for such violation shall be personally liable for such penalty, or the corporation may be sued in a justice court by the city for the maximum penalty.~~

~~(Code 1961, § 12B-6)~~

II.

THAT the City of New Braunfels Code of Ordinances Chapter 50, Article II, is hereby amended with additions underlined and deletions in strikethrough:

ARTICLE II. NUISANCE ABATEMENT

DIVISION 4. JUNKYARDS AND VEHICLE STORAGE FACILITIES

Sec. 50-88. Definitions.

For purposes of this Division, the term *junkyard* is defined as any place used or maintained by a person as a business that stores, buys, or sells materials that have been discarded or any place used for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any parts thereof.

For purposes of this Division, the term *vehicle storage facility* is defined as in state law, Occupations Code Ch. 2303.002, as amended.

Sec. 50-89. Requirements for junkyards and vehicle storage facilities.

- (a) The premises where a business that is defined in Section 50-88 is conducted, the *business premises*, and all buildings situated thereon shall be constructed and maintained so that the business is operated in a safe and sanitary manner. No material may be contained on business premises if the presence of the material constitutes a threat to the health or safety of people in properties adjacent to the business. No fire hazard may be contained on the business premises. All material stored on the business premises must be arranged in a manner so that the City can conduct a proper inspection in a reasonable amount of time.
- (b) The premises of a place where a business that is defined in Section 50-88 is located shall be enclosed by a solid screening fence or wall not less than seven feet in height. Such fence or wall must be permanently installed and maintained in good condition.

No materials may be piled or placed within the business premises that protrude higher than the wall or fence or protrude through or beyond the enclosure.

Sec. 50-90. Conditions constituting a nuisance.

Any place where a business that is defined in Section 50-88 is conducted that does not meet the requirements of Section 50-89 is hereby declared to be a public and common nuisance and is prohibited within the city limits.

Sec. 50-91. Notice of violation.

- (a) Service on persons. A notice of violation of this Division may be served by letter addressed to the owner of the property in violation at the owner's address as recorded in the appraisal district records of the appraisal district of the county in which the property is located. In cases of community property, service upon either spouse shall be deemed sufficient notice under this section.
- (b) Service on a business entity. A notice of violation of this Division may be served by letter to the entity's registered agent for service, as listed in the records of the Texas Secretary of State, or to any office or place of business of such business entity or to any officer of the business entity located within the city.

Sec. 50-92. Enforcement.

A violation of this division is a class C misdemeanor. Upon conviction for violation of this division, the owner shall be fined in accordance with the following:

- (1) First offenses shall have a minimum fine of \$100.00 and a maximum fine of \$2,000.00.
- (2) Second offenses shall have a minimum fine of \$200.00 and a maximum fine of \$2,000.00.
- (3) Third and subsequent offenses shall have a minimum fine of \$500.00 and a maximum fine of \$2,000.00.

Each day the property is in violation shall constitute a separate offense.

III.

THAT the City of New Braunfels Code of Ordinances Chapter 82, Section 82-6, Abandoned, wrecked, and junked vehicles, is hereby amended with additions underlined and deletions in strikethrough:

Sec. 82-6. Abandoned, wrecked, and junked vehicles; penalty.

- (a) *Keeping on private property.* It shall be unlawful to park, store or leave or to permit the parking, storing or leaving of any licensed or unlicensed motor vehicle of any kind, or the parts thereof, which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, upon any private property within the city limits for a period of time in excess of 30 days unless such vehicle or parts thereof are completely enclosed within a building or are stored in connection with a used car or junk area lawfully established pursuant to the zoning regulations of the city, and when not in violation of any other ordinance of this city.
- (b) *Accumulation of vehicles.* The accumulation and storage of one or more of such vehicles or parts thereof as defined in subsection (a) of this section on private property shall constitute a nuisance detrimental to the health, safety and welfare of the inhabitants of the city, and it shall be the duty of the owner of such vehicle or parts thereof, and/or it shall be the duty of the owner of the private property, or lessee or other person in possession of private property, upon which such vehicle or parts is located, to remove such vehicle or parts thereof from such property or to have such vehicle or parts thereof housed in a building where it will not be visible from the street or other private property.
- (c) *Exception. Notwithstanding the foregoing, the accumulation and storage of one or more vehicles or parts thereof as defined in subsection (a) on private property will not constitute a nuisance detrimental to the health, safety and welfare of the inhabitants of the city if said property meets the requirements of Sec. 50-89.*
- ~~(e)~~(d) *Penalty for violation.* Any person violating any provision of this section shall be guilty of a misdemeanor, and shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of this section is committed, continued or permitted, and upon conviction, any such violation shall be punishable by a fine not to exceed \$200.00.

IV.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof are declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

V.

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 the newspaper of general circulation at least one time within ten days of its final passage as required by the City Charter of the City of New Braunfels.

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

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

CITY OF NEW BRAUNFELS, TEXAS

NEAL LINNARTZ, MAYOR

ATTEST:

GAYLE WILKINSON, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY