

**ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES: CHAPTER 144, ZONING, SECTION 5.1, PARKING, LOADING, STACKING AND VEHICULAR CIRCULATION, SECTION 5.22, NONRESIDENTIAL AND MULTI-FAMILY DESIGN STANDARDS, SECTION 5.23, TEMPORARY VENDING OPERATIONS, AND, SECTION 5.24, TEMPORARY MOBILE STORAGE UNITS; CHAPTER 118, SUBDIVISION PLATTING, SECTION 118-11, WAIVER, SECTION 118-44, BLOCKS, AND, SECTION 118-49, SIDEWALKS; AND, AMENDMENTS TO APPENDIX D, FEE SCHEDULE, SECTION A SCHEDULE OF DEVELOPMENT FEES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, Chapter 211 of the Texas Local Government Code empowers a city to enact zoning regulations and provide for their administration, enforcement and amendment; and

**WHEREAS**, the City Council of the City of New Braunfels, Texas, deems it necessary and desirable to establish zoning regulations to provide for the orderly development of property within the City by governing the use of land in order to promote the public health, safety, morals and general welfare of the residents of the City; and

**WHEREAS**, the Comprehensive Plan, Envision New Braunfels, has multiple action items supporting updates that improve regulations, including Action Items 3.6 Pro actively provide a regulatory environment that remains business and resident friendly, 7.4 Strengthen sidewalk requirements in the City's codes, 7.7: Ensure that local development codes which require sidewalks, trails, lanes or paths include healthy living, safety, and vehicular congestion relief as an intent, and 7.9: Enact/enforce maximum block size limitations.

**WHEREAS**, the City Council has directed that regulations dealing with the use and development of land be reviewed by the Planning Commission to make recommendations concerning improving those regulations; and

**WHEREAS**, the Planning Commission held a public hearing on November 2, 2021 and recommended approval of the proposed amendments; and

**WHEREAS**, the City Council held a public hearing on said amendments on November 22, 2021; and

**WHEREAS**, the City Council hereby finds and determines that regularly updating the

code for clarification provides improved customer service and is in the best interest of the citizens of New Braunfels.

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

## **SECTION 1**

**THAT** Chapter 144, Zoning, Section 5.1 Parking, loading, stacking and vehicular circulation, is hereby amended with additions as underlined and deletions as stricken:

### **Sec. 144-5.1. Parking, loading, stacking and vehicular circulation.**

#### 5.1-1. General provisions.

- (i) *Off-site parking.* As a means of satisfying off-street parking requirements, off-site parking shall be permitted with the approval of an application for off-site parking. Off-site parking is subject to the following:
  - (1) The applicant has submitted an application for off-site parking that includes an access plan demonstrating that access to the off-site parking is reasonably and safely accessible by the public by foot;
  - (2) The nearest edge of the closest parking space of the off-site parking is no further than 800 feet from the lot or parcel of the premise using the off-site parking (subject property);
  - (3) The off-site parking spaces are not shared with any other off-premise use and are not required parking for any other premise;
  - (4) The off-site parking spaces shall be paved and striped to city code prior to a certificate of occupancy being granted to the premise using the off-site parking;
  - (5) An off-site parking agreement between the off-site parking area property owner and the property owner of the subject property on a form approved by the city attorney. The term of the agreement shall be no less than ten years. The agreement shall bind future owners or assigns. The agreement shall state that, if for any reason the agreement is not followed, the owner of the subject property shall acknowledge that the property is in violation of this chapter and that the certificate of occupancy may be voided by the city. The agreement shall state that it cannot be cancelled or amended unless by written agreement from the city, is replaced with on-site parking in accordance with code, or is replaced with another off-site parking agreement;
  - (6) Failure to renew or maintain an off-site parking agreement for required parking may result in loss of compliance with off-street parking requirements resulting in the revocation of the certificate of occupancy; and

- (7) Directional signage shall be provided as follows:
- (a) At the entrance to the off-site parking. There shall be no more than one such directional sign, it shall be no larger than four square feet per face, and state parking is allowed for the establishment using the off-site parking.
  - (b) In the on-site parking area of the subject property, stating and/or showing where the off-site parking is located. There shall be no more than one such sign that shall be no larger than four square feet per face.
- (8) Consideration of application. The ~~planning and community development department~~ Planning and Development Services Department shall approve or deny any completed application based on the above criteria and any additional information deemed necessary for a thorough review. Any application that is missing information will be considered incomplete and will not be processed. If approved, the off-site parking agreement shall be recorded in the appropriate county deed records and a copy shall be provided to the ~~planning and community development department~~ Planning and Development Services Department.
- (9) Appeal procedures. Aggrieved parties may appeal an off-site parking administrative decision. Appeals are considered by the ~~city council~~ zoning board of adjustment.
- (a) An appeal must be made with an application form available in the ~~planning and community development department~~ Planning and Development Services Department with the requirements to file an appeal as outlined in section 144-2.2 of this chapter.
  - ~~(b) The appeal shall be scheduled for consideration on a regular agenda of the city council.~~
  - (b) The zoning board of adjustment shall review the site plan and shall approve, approve subject to certain conditions, or disapprove the off-site parking plan.
  - (c) The ~~city council~~ zoning board of adjustment shall determine final approval or disapproval of all off-site parking appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord. No. 2016-75, § 2, 12-12-16; Ord. No. 2017-80, § 2, 10-23-17; Ord. No. 2018-21, § 2, 3-26-18; Ord. No. 2019-78, § 3, 11-11-19; Ord. No. 2021-07, § 6, 2-8-21; Ord. No. 2021-52, § 2, 7-12-21)

## SECTION 2

**THAT** Chapter 144, Zoning, Section 5.22 Non-residential and multifamily design standards, is hereby amended with additions as underlined and deletions as stricken:

**Sec. 144-5.22. Non-residential and multifamily design standards.**

*5.22-10. Appeal procedures.*

- (a) Enforcement of this section may be appealed to the planning commission ~~city council~~.
- (b) Appeal procedures.
  - (1) ~~All~~ Any appeal ~~actions for a site plan application denied by the planning director or his/her designee~~ shall be submitted ~~to and~~ by the applicant ~~city council~~ within 30 days of the denial ~~if requested by the applicant~~.
  - (2) An appeal must be made in writing on an application form available in the ~~planning and community development department~~ Planning and Development Services Department and shall be accompanied by an application fee per appendix D of this Code ~~and shall include a site plan, building elevation plan and landscape plan~~.
  - ~~(3) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the council within 30 days after the appeal application is received, or, in the case of an incomplete application, 30 days after the submission is deemed complete.~~
  - (3) The appeal shall be scheduled for consideration on the next available agenda of the planning commission.
  - ~~(4)~~ (4) The ~~council~~ planning commission shall review the ~~site plan~~ appeal and shall ~~recommend approval~~ approve, ~~approval~~ approve subject to certain conditions, or ~~disapproval~~ disapprove of the ~~concept plan or building site plan~~ appeal.
  - ~~(5)~~ (5) The ~~city council~~ planning commission shall determine final approval or disapproval of all ~~site plan~~ appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord No. 2017-06, § 3, 1-9-17; Ord. No. 2018-21, § 2, 3-26-18; Ord. No. 2020-05, § 4, 1-27-20)

**SECTION 3**

**THAT** Chapter 144, Zoning, Section 5.23 Temporary vending operations, is hereby amended with additions as underlined and deletions as stricken:

**Sec. 144-5.23. Temporary vending operations.**

*5.23-22. Appeal procedures.*

- (a) Enforcement of this section may be appealed to the ~~city council~~ zoning board of adjustment.
- (b) Appeal actions.

- (1) ~~All~~ An appeal ~~actions for a site plan application denied by the planning director~~ shall be submitted to the Planning and Development Services Department. to and reviewed by the city council, if requested by the applicant. The requirements to file an appeal are outlined in section 144-2.2 of this chapter.
- (2) The appeal shall be scheduled for consideration ~~of the site plan~~ on the next available regular agenda of the ~~council board~~ within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.
- (3) The ~~council board~~ shall review the site plan appeal and shall approve, approve subject to certain conditions, or disapprove the ~~concept plan or site plan appeal~~.
- (4) The ~~city council zoning board of adjustment~~ shall determine final approval or disapproval of all ~~site plan~~ appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord. No. 2016-38, § 1, 7-11-16; Ord. No. 2017-12, § 1, 1-23-17; Ord. No. 2017-77, § 4, 10-23-17; Ord. No. 2018-21, § 2, 3-26-18)

## SECTION 4

**THAT** Chapter 144, Zoning, Section 5.24 Temporary mobile storage units, is hereby amended with additions as underlined and deletions as stricken:

### **Sec. 144-5.24. Temporary mobile storage units.**

#### *5.24-14. Appeal procedures.*

- (a) Enforcement of this section may be appealed to the planning commission. ~~city council.~~
- (b) Appeal actions.
  - (1) ~~All~~ Any appeal ~~actions for a site plan application denied by the planning director or his/her designee~~ shall be submitted ~~to and reviewed by the city council, if requested~~ by the applicant within 30 days of the denial.
  - (2) The appeal shall be scheduled for consideration ~~of the site plan~~ on the ~~regular~~ next available agenda of the ~~council~~ planning commission ~~within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.~~
  - (3) The ~~council~~ planning commission shall review the ~~site plan appeal~~ and shall ~~recommend approval approve, approval approve~~ subject to certain conditions, or ~~disapproval disapprove of the concept plan or site plan appeal.~~
  - (4) The ~~city council~~ planning commission shall determine final approval or disapproval of all ~~site plan~~ appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord. No. 2018-21, § 2, 3-26-18)

## SECTION 5

**THAT** Chapter 118, Platting, Section 11 Waiver, is hereby amended with additions as underlined and deletions as stricken:

### **Sec. 118-11. Waiver.**

- (a) *General.* Where the ~~planning commission~~ city finds that undue hardships will result from strict compliance with a certain provision(s) of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the planning commission shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
  - (2) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein;
  - (3) The waiver will not in any manner vary the provisions of the zoning ordinance or other ordinance(s) of the city.
- (b) *Zoning variance.* If a zoning variance is requested on a particular parcel of property, then it may be decided concurrently with the submittal and consideration of any request for a waiver from any provision of this chapter.
- (c) *Zoning district change.* The commission 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.
- (d) *Conditions.* In approving a waiver from any provision of this chapter, the planning commission may require such conditions as will secure substantially the purposes described in this chapter.
- (e) *Procedures.*
  - (1) ~~Except for requests for sidewalk waivers, a~~ An application requesting a waiver shall be submitted in writing to the planning and development services department by the property owner or agent. This may be a separate request or concurrent with the

subdivision application. ~~The planning director may authorize the submittal and processing of a waiver petition prior to a subdivision application.~~ The petition application shall explain the purpose of the waiver, state fully the grounds for the waiver, and all of the facts relied upon by the petitioner.

- (2) All ~~W~~waivers, other than for block length, may be approved, disapproved or approved with conditions by the planning commission.

~~(3) All waivers for sidewalks approved and approved with conditions, including the approval of the escrowing of funds for the construction of sidewalks on perimeter streets to be built at a later date as prescribed in subsection 118-49(e), will be forwarded to city council for final consideration. Therefore, a petition application for a sidewalk waiver must be submitted in writing to the planning and development services department by the property owner or agent and routed through the planning commission and city council process before the associated plat may be submitted or filed.~~

~~(4)~~ (3) Block length waivers may be approved, disapproved or approved with conditions by the Planning and Development Services Department, pursuant to § 118-44 of this chapter.

- (4) The findings of the planning commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the planning commission meeting at which a waiver is considered, approved or disapproved.

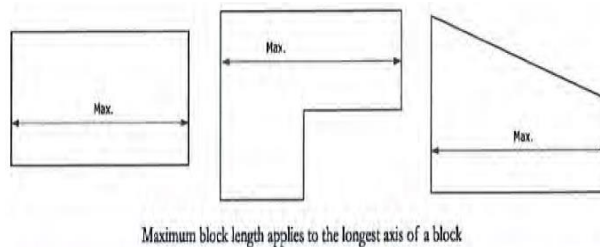
(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2014-62, § 1, 9-8-14; Ord. No. 2019-89, § 1, 12-9-19)

## SECTION 6

**THAT** Chapter 118, Platting, Section 44 Blocks, is hereby amended with additions as underlined and deletions as stricken:

### Sec. 118-44. Blocks.

- (a) Measurement. The length of a block is measured along the longest axis, as illustrated below:



- (b) Block lengths shall not exceed 1,200 feet except along arterial streets.

(c) Maximum block lengths along an arterial shall be 1,600 feet, except under special conditions as determined by the ~~planning commission~~ Planning and Development Services Department.

(d) Waivers.

- (1) An application requesting a waiver to block length shall be submitted in writing to the planning and development services department by the property owner or agent concurrent with the subdivision application. The petition application shall explain the purpose of the waiver, state fully the grounds for the waiver, and all of the facts relied upon by the petitioner.
- (2) Block length waivers are subject to the requirements outlined in section 118-11(a) of this chapter.
- (3) In making a determination regarding a requested block length waiver, the Planning and Development Services Department shall consider the street design and provision of multi-use trails that create pedestrian and cyclist connections. Multi-use trails shall be designed in compliance with current city standards.
- (4) The applicant may appeal a decision of the Planning and Development Services Department to deny a block length waiver or disagrees with the conditions placed upon an approved block length waiver to the planning commission. The appeal request shall include supporting documents, and the decision by the Planning and Development Services Department. The planning commission can affirm, reverse, or modify the decision.
- (5) The planning commission shall determine final approval or disapproval of a block length waiver or conditions on a block length waiver request.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2019-89, § 1, 12-9-19)

## SECTION 7

**THAT** Chapter 118, Platting, Section 49 Sidewalks, is hereby amended with additions as underlined and deletions as stricken:

### **Sec. 118-49. Sidewalks.**

- (a) *Requirement for installation.* Sidewalks shall be required, unless an exception is granted by the planning commission ~~and city council~~, in accordance with the following:
  - (1) On the subdivision or development side or sides of all major thoroughfares or arterial streets as indicated on the city's thoroughfare plan, or a major thoroughfare as determined by the planning commission, and on perimeter streets.
  - (2) On both sides of a street that serves as a local or collector street, except:
    - a. No sidewalks are required along a local residential large-lot street section, as shown in this chapter, where there is no parking on the street and where each lot has at least 100 feet of frontage;



- b. When an alternative pedestrian access plan is approved ~~by the planning commission and city council~~; and
  - c. When [a waiver as outlined in Section 118-11\(a\) of this chapter](#) ~~an exception~~ is granted by the planning commission ~~and city council~~.
- (3) As deemed necessary by the planning commission in any area based on uniformity along the street and conformity with the surrounding area.
- (b) *Installation.* Sidewalks shall be installed at the street front of lots, along the street side of corner lots, and as required on perimeter streets. Sidewalks shall be constructed in accordance with city standards and specifications at such time as the lot is improved unless otherwise determined by the planning commission. For instance, where there would be no building improvement to the area adjacent to the sidewalk.
- (c) *Escrow.* With regard to sidewalks on perimeter streets, the planning commission, upon request of the applicant, may allow the applicant to deposit in escrow the cost of sidewalks, as approved by the city engineer, for installation of sidewalks at a later date. The escrow money or letter of credit shall be deposited with the city prior to filing of the final plat.
- (d) *Plat note.* A plat note shall be placed on the final plat indicating that sidewalks were required, upon which streets sidewalks were required and who is responsible for installation.
- (e) *Location of sidewalks.*
  - (1) Sidewalks shall usually be constructed in the right-of-way of the adjacent street, but may be in easements as approved by the planning commission. For instance, along TxDOT ROW where future improvements would damage the sidewalk or where the walk is not adjacent to a street.
  - (2) Sidewalks adjacent to single-family or two-family lots, along a local street, shall be placed in the right-of-way at least three feet from the curb or adjacent to the curb.
  - (3) All sidewalks adjacent to collector streets, arterial streets, or TxDOT highways shall be separated by at least four feet from the curb or edge of the shoulder.
- (f) *Reserved.*
- (g) *Pedestrian and bikeways.* Pedestrian and bikeways, six feet in width, located in the right-of-way or in a public access easement, shall be dedicated and constructed where deemed necessary by the planning commission, to provide circulation or access to schools, playgrounds, parks, shopping centers, arterial streets and community facilities, or to provide pedestrian circulation within the subdivision. For instance, the commission may require such pedestrian or bikeways between lots at the end of culs-de-sac. Pedestrian and bikeways shall be constructed by the developer with a surface approved by the planning commission. Such pedestrian and bikeways may be required along perimeter streets.
- (h) *Sidewalk widths.* Sidewalk widths shall be as follows:
  - (1) Along one or two family lots: Four feet.
  - (2) Along multifamily or non-residential lots: Six feet.

- (3) In front of a commercial or multifamily building(s) where there is less than a ten-foot building setback: Ten feet.

(i) Waivers.

(1) Sidewalk waivers are subject to the requirements outlined in section 118-11 of this chapter.

(2) In making a determination regarding a requested sidewalk waiver, the planning commission shall consider the following:

- a. The presence of unique or unusual topographic, vegetative, or other natural conditions exist so that strict adherence to the sidewalk requirements contained herein is not physically feasible;
- b. That strict adherence to the sidewalk requirements contained herein is not in keeping with the purposes and goals of the code of ordinances and the City's Comprehensive Plan;
- c. Proximity to existing or planned pedestrian generators, such as schools, libraries, shopping centers, community centers, transit stops, parks and other government buildings;
- d. Whether any public sidewalk or roadway improvements are planned or contemplated in the area; and
- e. Any other information deemed appropriate in the professional judgment of the planning and development services staff and City Engineer.

(3) The planning commission shall determine final approval or disapproval of a sidewalk waiver.

~~(j)~~ (j) Alternate pedestrian access plan. Rather than requiring sidewalks on both sides of all streets within a subdivision, or along a perimeter street, the applicant may present for the Planning and Development Services Department ~~planning commission and city council~~ approval an alternate plan showing pedestrian access within and to destinations outside the subdivision such as schools and shopping. Such a plan might provide for no sidewalks on cul-de-sac bubbles, on both sides of all streets, or where the street was wider than the minimum standards.

(1) Alternate pedestrian access plans may be approved, disapproved or approved with conditions by the Planning and Development Services Department.

(2) The alternate pedestrian circulation plan shall contain at a minimum the following information:

- a. Letter explaining the purpose of the request,
- b. Location and arrangement of sidewalks, multiuse trails and pathways,
- c. Phasing or time schedule for the construction of the sidewalks, multiuse trails and pathways, and
- d. Identification of the sidewalk segments required under this section that will not be constructed.

(3) In making a determination regarding approval of an alternate pedestrian access plan, the following factors shall be considered:

- a. The presence of unique or unusual topographic, vegetative, or other natural conditions exist so that strict adherence to the sidewalk requirements contained herein is not physically feasible;
- b. The linear distance of the travel path of the sidewalks in the alternative pedestrian access plan must be comparable to the linear distance of the travel path of the sidewalk if constructed adhering to the requirements within this section.
- c. If the proposed sidewalks are not located within a public right-of-way, a private street or an existing irrevocable ingress/egress easement, then public access easements shall be included on the plat.
- d. All sidewalk construction shall conform to the latest criteria of the Americans with Disabilities Act (ADA).

(4) In considering the plan, the Planning and Development Services Department may require and impose conditions to ensure that access to and along the sidewalk areas is safe, convenient, and provides pedestrians with adequate paths of movement.

(5) The applicant may appeal a decision of the Planning and Development Services Department to deny an alternate pedestrian access plan or disagrees with the conditions placed on an approved alternate pedestrian access plan to the planning commission. The appeal shall include supporting documents, and the decision by the Planning and Development Services Department. The planning commission can affirm, reverse, or modify the decision.

(6) The planning commission shall determine final approval or disapproval of an alternate pedestrian access plan.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2013-28, § 1, 5-13-13; Ord. No. 2019-89, § 1, 12-9-19)

## SECTION 8

**THAT** Appendix D, Fee Schedule, Section A, Schedule of development fees, is hereby amended with additions as underlined and deletions as stricken:

### Sec. A. Schedule of development fees.

APPLICATION	FEE
<b>PLATTING RELATED</b>	
*****	
Plat waiver/subdivision variance <del>(not</del> <del>including sidewalk waivers)</del>	\$150.00
*****	
<b>MISCELLANEOUS</b>	

*****	
Sidewalk waiver	\$300.00
*****	

(Ord. No. 2018-21, § 7, 3-26-18; Ord. No. 2018-34, § 3, 5-14-18)

## SECTION 9

**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 10

**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 11

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

## SECTION 12

**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 13

**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.

**PASSED AND APPROVED:** First reading this, .....November 22, 2021

**PASSED AND APPROVED:** Second reading this the.....December 13, 2021

**CITY OF NEW BRAUNFELS**

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**RUSTY BROCKMAN**, Mayor

**ATTEST:**

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**CAITLIN KROBOT**, City Secretary

**APPROVED AS TO FORM:**

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**VALERIA M. ACEVEDO**, City Attorney