

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING APPROVAL OF AN AMENDMENT TO ORDINANCE NUMBER 2016-77, A TYPE 1 SPECIAL USE PERMIT ALLOWING A COMMERCIAL TUBER ENTRANCE AND TAKEOUT IN THE “C-4” RESORT COMMERCIAL DISTRICT, TO ALLOW A POSTPONEMENT TO THE REQUIREMENT FOR THE BUSINESS TO COMPLY WITH FEDERAL LAW ADA REQUIREMENTS FOR A PUBLIC/COMMERCIAL RIVER ACCESS POINT ON 0.2289 ACRES ADDRESSED AT 444 EAST SAN ANTONIO STREET, UNTIL DECEMBER 31, 2018 OR UNTIL THE POSTPONEMENT IS REVOKED BY THE TEXAS DEPARTMENT OF LICENSING AND REGULATION (TDLR) BASED ON A FORMAL COMPLAINT BEING FILED, WHICHEVER OCCURS FIRST; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

WHEREAS, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

WHEREAS, the property is located in an area suitable for the proposed uses; and

WHEREAS, the City Council desires to grant approval of an amendment to a Type 1 Special Use Permit for 444 East San Antonio Street to allow postponement to the requirement for the business to comply with Federal Law ADA requirements for a public/commercial river access point in the “C-4” Resort Commercial District until December 31, 2018 or until postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint being filed, whichever occurs first; **now**

therefore,

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

SECTION 1

THAT the Type 1 Special Use Permit adopted December 12, 2016, Ordinance number 2016-77, is hereby amended for the uses and conditions herein described:

“Being 0.2289 acres addressed at 444 East San Antonio Street and delineated in Exhibit “A”, to allow a postponement to the requirement for the business to comply with Federal Law ADA requirements for a public/commercial river access point in the “C-4” Resort Commercial District until December 31, 2018 or until the postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint, whichever occurs first.”

SECTION 2

THAT the Special Use Permit be subject to the following additional restrictions:

- 1. The Special Use Permit shall not become effective until the applicant completely resolves all outstanding City of New Braunfels Municipal Court cases.*
- 2. The business must comply with Federal Law ADA requirements for public/commercial access point at 444 East San Antonio Street no later than December 31, 2018 or when the postponement is revoked by the Texas Department of Licensing and Regulation (TDLR) based on a formal complaint, whichever occurs first.*
- 3. The subject use shall provide parking to accommodate a minimum of 200 off-street parking spaces, based on utilizing 800 tubes; if more than 800 tubes are utilized by the subject, an appropriate number of additional parking spaces will be required per existing City ordinances. Should the adjacent 12,000 square foot building and outdoor decks on the premises become commercially occupied, the 40 off-street parking spaces on the property will not be counted in the required 200 off-street parking spaces required for this Special Use Permit.*
- 4. The owner/operator of the subject use shall cooperate and comply with the City*

requests, orders and/or ordinances related to crowd control management, including but not limited to queuing, staggered entry, cut-off times, and maximum entry/limits.

- 5. Any vehicular/shuttle transport used by owner/operator of the subject use from any off-site shared parking areas must be on streets classified as Collectors or higher in the City's Regional Transportation Plan, or be part of an existing approved shuttle route.*
- 6. Should ownership of the subject property change, Staff will initiate a new zoning case to review the Special Use Permit.*

SECTION 3

THAT all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5

EFFECTIVE DATE AND PUBLICATION:

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.

SECTION 6

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 28th day of August, 2017.

PASSED AND APPROVED: Second Reading this the 11th day of September, 2017.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

