

3.3-9. "C-3" commercial district. The following regulations shall apply in all "C-3" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Appendix. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- Aircraft support and related services
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors) (see Sec. 5.13)
- Amusement services or venues (outdoors)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Assembly/exhibition hall or areas
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto glass repair/tinting (see Sec. 5.11)
- Auto interior shop / upholstery (see Sec. 5.11)
- Auto leasing
- Auto muffler shop (see Sec. 5.11)
- Auto or trailer sales rooms or yards (see Sec. 5.12)
- Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)
- Auto paint shop
- Auto repair as an accessory use to retail sales (see Sec. 5.11)
- Auto repair garage (general) (see Sec. 5.11)
- Auto supply store for new and factory rebuilt parts

Auto tire repair /sales (indoor)
Automobile driving school (including defensive driving)
Bakery (retail)
Bank, savings and loan, or credit
Bar/Tavern
Barber/beauty college (barber or cosmetology school or college)
Barber/beauty shop, haircutting (non-college)
Barns and farm equipment storage (related to agricultural uses)
Battery Charging station
Bicycle sales and/or repair
Billiard / pool facility
Bingo facility
Bio-medical facilities
Book binding
Book store
Bottling or distribution plants (milk)
Bottling works
Bowling alley/center (see Sec. 5.13)
Broadcast station (with tower) (see Sec. 5.7)
Bus barns or lots
Bus passenger stations
Cafeteria / café / delicatessen
Campers' supplies
Car wash (self service; automated)
Car wash, full service (detail shop)
Carpet cleaning establishments
Caterer
Cemetery and/or mausoleum
Check cashing service
Chemical laboratories (not producing noxious fumes or odors)
Child day care/children's nursery (business)
Church/place of religious assembly
Civic/conference center and facilities
Cleaning, pressing and dyeing (non-explosive fluids used)
Clinic (dental)
Clinic (emergency care)
Clinic (medical)
Club (private)
Coffee shop
Commercial amusement concessions and facilities
Communication equipment installation and/or repair
Community building (associated with residential uses)
Computer and electronic sales
Computer repair
Confectionery store (retail)
Consignment shop
Contractor's office/sales, with outside storage including vehicles
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
Convenience store with or without fuel sales
Country club (private)
Credit agency
Curio shops
Custom work shops
Dance hall / dancing facility (see Sec. 5.13)
Day camp

Department store
Drapery shop / blind shop
Drug sales/pharmacy
Electrical repair shop
Electrical substation
Exterminator service
Farmers market (produce market - wholesale)
Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
Feed and grain store
Filling station (fuel tanks must be below the ground)
Florist
Food or grocery store with or without fuel sales
Fraternal organization/civic club (private club)
Freight terminal, truck (all storage of freight in an enclosed building)
Frozen food storage for individual or family use
Funeral home/mortuary
Furniture manufacture
Furniture sales (indoor)
Garden shops and greenhouses
Golf course (miniature)
Golf course, public or private
Governmental building or use
Greenhouse (commercial)
Handicraft shop
Hardware store
Health club (physical fitness; indoors only)
Heating and air-conditioning sales / services
Heavy load (farm) vehicle sales/repair (see Sec. 5.14)
Home repair and yard equipment retail and rental outlets (no outside storage)
Hospice
Hospital, general (acute care/chronic care)
Hospital, rehabilitation
Hotel/motel
Hotels/motels - extended stay (residence hotels)
Ice delivery stations (for storage and sale of ice at retail only)
Kiosk (providing a retail service)
Laundromat and laundry pickup stations
Laundry, commercial (w/o self serve)
Laundry/dry cleaning (drop off/pick up)
Laundry/washateria (self serve)
Lawnmower sales and/or repair
Limousine / taxi service
Locksmith
Lumberyard (see Sec. 5.15)
Lumberyard or building material sales (see Sec. 5.15)
Maintenance/janitorial service
Major appliance sales (indoor)
Market (public, flea)
Martial arts school
Medical supplies and equipment
Metal fabrication shop
Micro brewery (onsite manufacturing and/or sales)
Mini-warehouse/self storage units with outside boat and RV storage
Mini-warehouse/self storage units (no outside boat and /RV storage permitted)
Motion picture studio, commercial film

Motion picture theater (indoors)
Motion picture theater (outdoors, drive-in)
Motorcycle dealer (primarily new / repair)
Moving storage company
Moving, transfer, or storage plant
Museum
Needlework shop
Non-bulk storage of fuel, petroleum products and liquefied petroleum
Nursing/convalescent home/sanitarium
Offices, brokerage services
Offices, business or professional
Offices, computer programming and data processing
Offices, consulting
Offices, engineering, architecture, surveying or similar
Offices, health services
Offices, insurance agency
Offices, legal services - including court reporting
Offices, medical offices
Offices, real estate
Offices, security/commodity brokers, dealers, exchanges and financial services
Park and/or playground (private or public)
Parking lots (for passenger car only) (not as incidental to the main use)
Parking structure/public garage
Pawn shop
Personal watercraft sales (primarily new / repair)
Pet shop / supplies (10,000 sq. ft. or less)
Pet store (more than 10,000 sq. ft.)
Photo engraving plant
Photographic printing/duplicating/copy shop or printing shop
Photographic studio (no sale of cameras or supplies)
Photographic supply
Plant nursery
Plant nursery, with retail sales
Plumbing shop
Portable building sales
Propane sales (retail)
Public recreation/services building for public park/playground areas
Publishing/printing company (e.g., newspaper)
Quick lube/oil change/minor inspection
Radio/television shop, electronics, computer repair
Recreation Buildings (private or public)
Recycling kiosk
Refreshment/beverage stand
Research lab (non-hazardous)
Restaurant with drive-through
Restaurant/prepared food sales
Retail store and shopping center
Retirement home/home for the aged (public)
RV park
RV/travel trailer sales
School, K-12 (public or private)
School, vocational (business/commercial trade)
Security monitoring company
Security systems installation company
Shoe repair shops
Sign manufacturing/painting plant

Storage - exterior storage for boats and recreational vehicles
 Storage in bulk
 Studio for radio or television (without tower)
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Tailor shop
 Tattoo and body piercing studio
 Taxidermist
 Telemarketing agency
 Telephone exchange buildings (office only)
 Tennis court (commercial)
 Theater (non-motion picture; live drama)
 Tire sales (outdoors)
 Tool rental
 Transfer station (refuse/pick-up)
 Travel agency
 Truck Stop
 University or college (public or private)
 Upholstery shop (non-auto)
 Used or second hand merchandise/furniture store
 Vacuum cleaner sales and repair
 Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential
 Video rental / sales
 Warehouse / office and storage / distribution center
 Waterfront amusement facilities - berthing facilities sales and rentals
 Waterfront amusement facilities - boat fuel storage / dispensing facilities
 Waterfront amusement facilities - boat landing piers / launching ramps
 Waterfront amusement facilities – swimming / wading pools / bathhouses
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
 Welding shop
 Wholesale sales offices and sample rooms
 Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein.

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 120 feet.
- (ii) *Front building setback.* No building setback required.
- (iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.
- (iv) *Rear building setback.* 20 feet.

- (v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
 - (vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirements will not prohibit the construction of a use enumerated in this district.
 - (vii) *Lot depth.* 100 feet.
 - (viii) *Parking.* See Section 5.1 for permitted uses' parking.
- (2) One family dwellings.
- (i) *Height.* 45 feet.
 - (ii) *Front building setback.* 25 feet.
 - (iii) *Rear building setback.* 20 feet.
 - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
 - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
 - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
 - (vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.
 - (viii) *Lot depth.* 100 feet.
 - (ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.
- (3) Duplexes.
- (i) *Height.* 45 feet.
 - (ii) *Front building setback.* 25 feet.
 - (iii) *Rear building setback.* 20 feet.

- (i) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
 - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
 - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet
 - (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
 - (viii) *Lot depth.* 100 feet.
 - (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.
- (4) Multifamily dwellings.
- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
 - (ii) *Front building setback.* 25 feet.
 - (iii) *Rear building setback.* 25 feet.
 - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
 - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
 - (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
 - (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

- (viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
 - 1. One-bedroom apartment or unit . . . 1 1/2 spaces
 - 2. Two-bedroom apartment or unit . . . 2 spaces
 - 3. Each Additional bedroom . . . 1/2 space
 - 4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

Types of Special Use Permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
 - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
 - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (7) Required yards and open space;
 - (8) Height and bulk of structures;
 - (9) Hours of operation;
 - (10) Paving of streets, alleys, and sidewalks,
 - (11) Provisions for drainage,
 - (12) Exterior construction material and building design; and
 - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).

3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:

- (a) Construction is not begun within five years of the date of approval of the permit.
- (b) Progress toward completion is not being made. Progress toward completion includes the following:
 - (1) An application for a final plat is submitted;
 - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
 - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
 - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
 - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
 - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
 - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
 - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
 - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
 - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
 - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
 - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

ORDINANCE NO. 2020-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES, CHAPTER 144 ZONING, SECTION 1.4 DEFINITIONS, AND SECTION 5.17 SHORT TERM RENTAL OR OCCUPANCY; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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 the regulation of short-term rentals, including Action Item 1.3: Encourage balanced and fiscally responsible land use patterns, Action 1.11: Update policies and codes to achieve development patterns that implement the goals of Envision New Braunfels, Action 1.14: Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions, Action 3.3: Balance commercial centers with stable neighborhoods, and Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly; and

WHEREAS, the City Council finds it necessary to amend the regulatory standards of short-term rentals and occupancy to protect residential neighborhoods in New Braunfels; and

WHEREAS, the City Council and the Planning Commission reviewed these issues at a joint workshop on January 15, 2019; and

WHEREAS, an ad hoc group of 3 City Council Members and 3 Planning Commissioners was formed and convened 4 times to study the ordinance and recommend amendments; and

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 February 4, 2020 and recommended approval of the proposed amendments; and

WHEREAS, the City Council held a public hearing on said amendments on February 24, 2020; and

WHEREAS, the City Council hereby finds and determines that adopting updates and enhanced standards for short-term rentals 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 1.4 Definitions, is hereby amended with additions as underlined and deletions as strikeouts as follows:

Article I. - General Provisions.

Section 144-1.4. – Definitions

Special use permit means a specific authorization of a use that is not allowed by right in a specific zoning district, but through certain conditions may be found by city council to be compatible at a specific location in that zoning district. Special use permits are not permits, but rather are treated as a zoning overlay and, as such, follow the procedures outlined in section 3.6 of this chapter which include a public hearing and recommendation by the planning commission, and final public hearing and decision by the city council.

SECTION 2

THAT Chapter 144, Zoning, Section 5.17 Short term rental or occupancy, is hereby amended with additions as underlined and deletions as strikeouts as follows:

Sec. 144-5.17. - Short term rental or occupancy.

5.17-1. *Purpose.* This section is intended to provide a procedure to allow the rental of private ~~residences~~ dwellings to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to ~~residential~~ surrounding neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the ~~design~~ reasonable capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

5.17-2. *Definitions.*

~~Adult means an individual 17 years of age or older.~~

~~Bedroom means a room designated and used primarily for sleeping and rest on a bed.~~

Floodway means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Habitable space means a space in a dwelling for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Non-residential district means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved special districts identified as non-residential unless otherwise specified within the special district.

Occupant means the person or ~~persons~~ people over the age of 3 who ~~have rented~~ are sleeping in the short term rental ~~and their guest(s).~~

Operator means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a short term rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

Owner means the person or entity that holds legal and/or equitable title to the private property.

Resort condominiums means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

Resort property means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24-hour security and 24-hour front desk personnel. These units comply with all commercial building code standards.

Short term rental means the rental for compensation of ~~one or two family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging~~ a privately owned dwelling, including but not limited to, a single-family dwelling, two-family dwelling (duplex), tri-plex, quadraplex, multifamily dwelling, apartment house, tiny home, townhome, manufactured home, industrialized home, or garage apartment, rented by the public for consideration and used for dwelling, lodging or sleeping purposes for a period of not less than one night and not more than 30 days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This term is not applicable to hotels, motels, bed and breakfasts, dormitories, recreational vehicle parks, hospitals, medical clinics, nursing homes, convalescent homes, foster homes, halfway houses, transitional housing facilities, resort properties as defined in this chapter, or resort condominiums.

Short term rental decal means the decal issued by the city as part of a short term rental permit that identifies the subject property as a short term rental, the short term rental permit number, the owner or rental agent's name and 24-hour emergency contact phone number of either the owner or the rental agent, or via an electronic database available to emergency responders and code enforcement officers as provided by the city.

Sleeping ~~area~~room means a habitable~~room or other~~ space within a dwelling designed or used for sleeping, as referred to in the adopted International Residential Code (as amended) in the following sections: Light, ventilation and heating (R305), Minimum room areas (R304), Ceiling height R(305) and Emergency escape and rescue openings (R310), including a bedroom. Tents, hammocks, yurts,~~and~~ recreational vehicles, and non-habitable spaces shall not be considered a sleeping ~~area~~room. Every sleeping room must have at least one operable emergency escape and rescue opening as per all applicable city-adopted codes, regulations and ordinances.

5.17-3. *Applicability.*

- (a) Short term rental within residential districts is prohibited.
- (b) Short term rental is prohibited in any floodway located within the city limits, regardless of zoning district.
- (c) Short term rental permit. A short term rental permit is required in all zoning districts, ~~prior to the use of a one-family or two-family dwelling as a short term rental located within a non-residential district.~~ Subject to subsection (d), ~~Standards, of this section 5.17-5,~~ an owner shall obtain and maintain a current permit ~~whenever a dwelling is used as a~~ for all short term rentals as defined in this chapter. ~~Annual inspections~~ is are required as specified in subsection (f), ~~Inspections, of this section 5.17-6. A special use permit is required in all zoning districts except C-4, C-4A and C-4B.~~
- (d) Special use permit. In addition to the short term rental permit, a special use permit, as defined in section 1.4 of this chapter, is required in all zoning districts except C-4, C-4A and C-4B where a short term rental is proposed in a single-family dwelling

or a duplex only, constructed pursuant to the International Residential Code, where not otherwise prohibited in this chapter. The process for requesting consideration of a special use permit is outlined in section 3.6 of this chapter.~~Within 180 days of the effective date of this section, the owner or operator of each existing legally established short term rental shall apply for and pay the permit fee for a short term rental permit. Within 45 days of receipt of a completed application, the permit fee and compliance with subsection (e), short term rental permit, of this section, a permit shall be issued to the owner or operator that will be good for one year from the date issued and subject to the annual renewal inspection by the fire marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with subsections 144-2.3(b), (c), (d), Nonconforming use.~~

5.17-4. *Standards.* All short term rentals permitted pursuant to this chapter are subject to the following standard requirements:

- (a) *Occupancy.* The maximum number of ~~persons occupants~~ allowed to ~~reside sleep~~ in a short term rental is two (2)adults occupants per sleeping ~~area room~~ plus an additional ~~four two (2) adults occupants per residence~~.
- (b) *Bathrooms.* Not less than one (1) full bathroom shall be provided for each five occupants of the short term rental, according to the chart provided below. This full bathroom must meet the minimum International Residential Code standards (R306, Sanitation) and include a wash basin, toilet and tub or shower. Half bathrooms must contain, at a minimum, a washbasin and toilet for the purposes of this section; a full bathroom may be used in lieu of a half bath.

5 occupants 1 full bath (hereafter referred to as 1)

6-9 occupants 1 full bath and 1 half bath (half baths hereafter referred to as .5)

10 occupants 2 baths

11-14 occupants 2.5 baths

15 occupants 3 baths

And so on...

- (c) *Short term rental decal display.* As part of a short term rental permit, the city issued short term rental decal shall be posted on the front of each short term rental in a location that is accessible and legible to an individual at the entry of the short term rental, or via an electronic database available to emergency responders and code enforcement officers as provided by the city.
- (ed) *Advertising.* The short term rental permit number, maximum occupancy as permitted, and life-safety inspection expiration date must be listed in all advertising for the short term rental.
- (e) *Parking.* A minimum of one (1) off-street parking space, not including the garage, per sleeping ~~area room~~ shall be provided ~~with a minimum of two and a maximum not to exceed the number of sleeping areas plus one~~. No required parking shall be permitted within public right-of-way or access easements as defined by city and state regulations regarding parking.
- (df) *Life safety.*

- (1) All building and fire related construction shall conform to the city's adopted ~~IRC (International Residential Code)~~ building codess.
- (2) A 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor and will be maintained in accordance with the manufacturer's specifications.
- (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.
- (4) An evacuation plan shall be posted conspicuously in each sleeping ~~area~~ room.
- ~~(5) Every bedroom/sleeping area in a short term rental that does not comply with subsection (d)(4), Life safety, of this section shall not be used as a sleeping area and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the short term rental. The owner/operator shall notify every occupant, in writing, that the non-compliant sleeping area may not be used for sleeping.~~

(eg) Conduct on premises.

- (1) Each occupant and visitor to a short term rental shall comply with all applicable provisions of the City Code, including, without limitation: noise and disorderly conduct restrictions from chapter 82, Offenses and miscellaneous provisions; litter prohibition from chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a short term rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the short term rental as specified in subsection (7), Tenant indoor notification, below.
- (2) All occupants shall be informed in writing of relevant city ordinancess including, but not limited to, the city's nuisance ~~and~~, water conservation, noise and disorderly conduct ordinances by the owner/operator of the short term rental.
- (3) Excessive noise or other disturbance outside the short term rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (4) No sleeping is allowed outdoors.

(fh) Signage. Signage shall be in compliance with the city's current sign code.

(gi) Tenant indoor notification. The operator shall post in a conspicuous location of the dwelling the following minimum information:

- (1) Maximum number of occupants.
- (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
- (3) Quiet hours and noise restrictions.
- (4) Restrictions of outdoor facilities.
- (5) 24-hour contact person and phone number.

- (6) Property cleanliness requirements.
 - (7) Trash pick-up requirements, including location of trash cans.
 - (8) Flooding hazards and evacuation routes. Including information on the emergency siren system.
 - (9) Emergency numbers.
 - (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City Code and occupant or visitor can be cited.
 - (11) Other useful information about the community.
- (h) *Rental agreement notification.* The rental agreement between the owner/operator of the short term rental and the occupant shall include by attachment, all of the information provided on the tenant indoor notification signage.

5.17-5. *Short term rental permit.*

- (a) *Application.* Application for a short term rental permit shall be in writing on an application form available in the planning and ~~community~~ development [services](#) department, shall be accompanied by a one-time payment of the fee per appendix D of this Code and shall include the following information, at a minimum:
- (1) A list of all owners of the short term rental including names, address and telephone numbers.
 - (2) A sketch or narrative describing the location of the available parking spaces as required by ~~subsection d(3), Parking, of~~ this section.
 - (3) A sketch of the floor plan.
 - (4) The name, address and 24-hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short term rental.
 - (5) Proof of hotel occupancy tax compliance with V.T.C.A., Tax Code ch. 351, before permit is granted.
 - (6) A statement that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this section.
 - (7) Provide current email address of owner/operator, if applicable.
 - (8) If owner/operator has a property management or agent, owner/operator shall provide property management or agent phone number, mailing address and email address.
- (b) *Completeness of application.* If the application is incomplete or the full fee has not been paid, the planning director shall notify the applicant in writing, within ten business days of the date of the application, that the application is incomplete and will not be considered by the city until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.
- [\(c\) *Insurance.* General commercial liability insurance \(or its equivalent\) coverage of a minimum of \\$500,000 per occurrence of coverage is required for all short term](#)

rentals. The owner must provide a copy of the certificate of insurance which shows the name insured, any additional insureds, the location address, the effective date, the coverage limit and type. The owner must notify the City within 30 days if the insurance status changes and provide the City with updated insurance information. The short-term rental permit shall be suspended until proof of updated insurance is provided.

~~(ed)~~ *Annual renewal.* ~~A short term rental permit will be renewed annually through an inspection conducted by the fire marshal to verify continued compliance with subsection 144-5.17-4, Standards, of this section~~ A short-term rental permit may be renewed annually if:

- (1) The permittee pays inspection fee and passes inspection to be conducted by the Fire Marshal in accordance with section 5.17-6.
- (2) The permittee provides documentation showing that local hotel occupancy taxes have been paid for the permitted unit as required for the previous year.
- (3) The permittee provides documentation of insurance requirements of subsection (c) above.
- (4) The property is not subject to outstanding city code or state law violations.
- (5) The permittee or operator has no outstanding city fees or fines.
- (6) The permittee or operator does not meet the standards described in Section 5.17-7 regarding repeat offenses.
- (7) The city shall deny an application to renew a permit if, on the date the renewal application was submitted, 12 months has not expired since a revocation pursuant to section 5.17-8.

~~(de)~~ *Transferability.* A short term rental permit is transferable to a new property owner, if the new property owner submits a short term rental permit application and agrees in writing to comply with the requirements of this section. A new owner must apply for a short term rental permit within 90 days from the closing date of the purchase. The new owner must provide a copy of the closing statement with the short term rental permit application form. Failure of the new property owner to apply for permit within 90 days from the closing date will revoke the short term rental permit. ~~Short term rentals existing prior to the effective date of this section that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with subsection 144-5.17-3(d), Applicability, shall become null and void if the new owner fails to apply for the short term rental permit within 90 days from the date of the deed of the new owner's purchase.~~

~~(ef)~~ *Appeal.* If an application for a short term rental permit or renewal is denied, the owner or operator may appeal to the planning ~~and zoning~~ commission by written notice delivered within thirty (30) days of denial or revocation.

5.17-6. *Inspections.* To ensure continued compliance with the requirements of this section a short term rental shall be inspected in the following methods:

- (a) *Transfer inspection.* As part of the transfer of a short term rental permit to a new owner, in accordance with ~~subsection 144-5.17-5(d)~~ 5.17-5(e), Transferability, and the issuance of a new short term rental permit the city's fire marshal shall conduct an inspection to verify compliance with this section.

- (b) *Fire extinguishers.* The owner/operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the city's current fire code and is responsible for its maintenance in accordance with the manufacturer's specifications.
- (c) *Immediate inspection.* The city's code enforcement division and fire marshal's office will perform inspections immediately when a violation is suspected.
- (d) ~~Annual~~ *Fire inspection.* The city's fire marshal's office will perform ~~annual~~ inspections annually for non-sprinklered structures and perform inspections every other year for sprinklered structures for compliance with this section. The fee for ~~an annual~~ fire inspections is per appendix D of this Code.

5.17-7. *Enforcement/penalty.*

- (a) Emergency contact. The owner/operator of the short term rental shall provide the city with a 24-hour contact number. The 24-hour contact is required to be able to travel to the short-term rental within sixty (60) minutes under reasonable circumstances. Should a law enforcement officer or code enforcement officer respond to the short term rental and issue a citation/notice of violation for any violation of city ordinances, the owner/operator shall be called by the officer. The owner/operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation/notice of violation issued to any part of the occupants or guests, the owner/operator must take appropriate steps, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three separate citations/notices of violation be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six-month period, the short term rental permit and/or special use permit may be revoked in accordance with the revocation process specified in subsection 144-5.17-8, Revocation.
- (b) Violations of any subsection of this section may result in revocation of ~~revoke~~ the short term rental permit and/or special use permit in accordance with subsection 144-5.17-8, Revocation.
- (c) Failure to pay hotel occupancy tax timely is considered a violation of this section and may result in revocation of the short term rental permit and/or special use permit in accordance with subsection 144-5.17-8, Revocation. Owner shall have thirty (30) days from the date the city or state issue a notice of delinquency to submit delinquent hotel occupancy tax to city and state before revocation of the short term rental permit/special use permit begins.
- (d) Failure to successfully complete the renewal process of a short term rental permit is considered a violation of this section. Owner shall have 45 days from the date city issues notice of denial to gain compliance of noncompliant items before the revocation of the short term rental permit begins.
- (e) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by city ordinances or county or state law.
- (f) ~~Proof.~~ Prima facie proof of ~~occupancy of a dwelling~~ violation of this section is established ~~in any prosecution for violation of this section~~ if it is shown that ~~vehicles with registrations to persons having different surnames and addresses were parked~~

~~overnight at the dwelling~~ visual inspection of more than the posted occupancy load (5.17-4(i)(1)) was made by a code enforcement officer, building inspector, fire inspector or police officer at a unit.

Establishment of a prima facie level of proof in this subsection does not preclude a showing of illegal "occupancy" of a dwelling by a person in any other manner.

- (g) Offense. It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this section 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of \$500.00 to a maximum fine of \$2,000.00 per violation. Should a property owner operate a short-term rental without a permit, a non-compliance fee of \$2,000 will be assessed.
- (h) Each day of violation of said standards and provisions of this section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

(i) Repeat Offenses. It shall be deemed a repeat offense:

- (1) if the permittee, operator, owner or person in control of the property fails to comply with any of the provisions of this section (5.17) more than twice in a 12-month period, and/or
- (2) if the property is the subject of repeated health or safety violations of city code or state law during a 24-month period prior to applying for a permit or renewing a permit to operate a short term rental.

5.17-8. *Revocation.* If any violations stated in subsection 144-5.17-7, Enforcement/penalty, of this section have been committed and not corrected within the time specified, the ~~planning director~~ city shall begin the procedures to revoke the special use permit in accordance with Section 3.6-5(f), and revoke the short term rental permit in accordance with the following:

- (a) The city shall give thirty (30)-day written notice to the owner/operator regarding the public hearing dates which include a ~~and~~ recommendation by the planning commission, and public hearing and decision by the city council.
- (b) The city shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the public hearings.
- (c) If a short term rental permit and/or special use permit is revoked, the owner/operator may not reapply for the same property for a period of 12 months.

~~5.17-9.~~ *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 3

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 4

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 5

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

SECTION 6

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 7

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 24th day of February, 2020.

PASSED AND APPROVED: Second reading this the 9th day of March, 2020.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney