

Legislation Text

File #: 19-044, **Version:** 1

Presenter/Contact

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SUBJECT:

Approval of the second and final reading of an ordinance amending the Code of Ordinances, Chapter 144, Zoning, Sections 4 and 5, regarding above-ground fuel storage tanks.

BACKGROUND / RATIONALE:

Case No.: CS-18-034

Council District: All

Applicant: City of New Braunfels

At their December 10, 2018 regular meeting, City Council unanimously approved the first reading of this ordinance (6-0).

The Zoning Ordinance currently includes a definition for the term "Bulk Storage":

Bulk storage of fuel and flammable liquids (except liquefied petroleum gas) shall be any aboveground tank for storage of subject liquids which exceeds 500 gallons water capacity, or any facility for which the total aggregate capacity of belowground storage tanks shall exceed 50,000 gallons. Bulk storage of liquefied petroleum gas shall be any facility for which the total aggregate capacity of storage tanks (including truck and/or trailer tanks) exceeds 2,000 gallons water capacity.

This definition in the Zoning Ordinance does not make a distinction between retail uses (such as gasoline filling stations), or other uses that may require fuel tanks (such as wholesale distributors, auto dealers, farm equipment sales, etc.).

The Use Matrix then specifies that bulk storage of gasoline petroleum products, liquefied petroleum and flammable liquids is not allowed in any of the current zoning districts. While that may give the impression this use is not allowed in New Braunfels, the beginning of the Use Matrix notes that an application for a Special Use Permit (SUP) may be made for any land use not permitted in any district.

Therefore, proposals for above-ground fuel storage tanks for any use (retail, wholesale, personal filling, etc.), and below ground tanks larger than 50,000 gallons aggregate, have been following the SUP procedures. **However**, as staff commenced research into any needed amendments related to this use/activity, staff was made aware of associated state law (see attachment).

State of Texas Health and Safety Code Chapter 753, subsection 004(a) states that flammable liquids

cannot be stored **at a retail service station** in aboveground containers larger than 60 gallons within the city limits **of a municipality over 5,000 in population**. This statute further stipulates that **underground storage tanks for retail service stations may not be limited**.

The proposed amendments to New Braunfels' Zoning Ordinance (see attached) will codify this state pre-emption in our local codes to ensure consistency and broad knowledge of regulations already in place.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

City Plan/Council Priority: Envision New Braunfels	Action 1.11: <i>Update policies and codes to achieve development patterns that implement the goals of this plan.</i> The proposed amendments will make local regulations consistent with the state's direction to its cities. Action 3.6: <i>Pro actively provide a regulatory environment that remains business and resident friendly.</i> In addition to state statute consistency, the proposed amendments include corrections and clarification that will improve administration of the local code and processes.
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval at their December 4, 2018 meeting.

STAFF RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

- State of Texas Health and Safety Code Chapter 753 excerpt
- Draft amendments with strikeouts (deletions) and underlines (additions).
- Draft ordinance