

## **ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ADOPTING A NEW SAN MARCOS DEVELOPMENT CODE (“CODESMTX”), INCLUDING APPENDICES (THE “DESIGN MANUAL”), UNDER SUBPART B OF THE SAN MARCOS CITY CODE TO REPLACE BOTH THE CURRENT LAND DEVELOPMENT CODE UNDER SUBPART B AND THE SAN MARCOS SMARTCODE UNDER SUBPART C OF THE SAN MARCOS CITY CODE; APPROVING OTHER TECHNICAL REFERENCES TO BE USED BY CITY STAFF IN ADMINISTERING THE NEW SAN MARCOS DEVELOPMENT CODE; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

### **RECITALS:**

1. Following public hearings and community outreach, together with recommendations from various committees, boards and commissions, City staff proposed and the Planning and Zoning Commission has considered and recommended approval of a new San Marcos Development Code to replace the City’s Land Development Code under Subpart B of the San Marcos City Code.

2. The City Council, having considered such recommendations, hereby finds and determines that the approval and adoption of the San Marcos Development Code under Subpart B of the San Marcos City Code is in the interest of the public health, welfare and safety.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** A new Subpart B, the San Marcos Development Code, including all appendices (the “Design Manual”), a copy of which is attached hereto as Exhibit A, and made a part hereof for all purposes, is hereby approved and adopted.

**SECTION 2.** The current Subpart B of the San Marcos City Code, the Land Development Code, and Subpart C of the San Marcos City Code, the San Marcos SmartCode, are superceded in their entirety by the new Subpart B, the San Marcos Development Code.

**SECTION 3.** All other manuals, publications or City and third party standards or technical specifications referred to in the San Marcos Development Code and the Design Manual, as may be amended or revised from time to time, are hereby approved and adopted and shall apply to all development of land governed by the San Marcos Development Code.

**SECTION 4.** Notwithstanding the foregoing, the current Subpart B, the Land Development Code and Subpart C, the San Marcos SmartCode,(the Previous Development Ordinances”) shall remain in effect as follows:

**A.** The Previous Development Ordinances shall continue to apply to complete development applications that were either: 1) approved prior to the effective date of this ordinance, if the approval was in effect as of the effective date of this ordinance and has not expired; or 2) duly accepted for filing prior to or on the effective date of this ordinance, if the application is thereafter approved and has not expired, been terminated or revoked.

**B.** The Previous Development Ordinances shall continue to apply in accordance with the requirements of Chapter 245 of the Texas Local Government Code, as applicable.

**C.** The City may continue to enforce zoning-related rules, standards and conditions applicable to and governing uses, structures, and lots lawfully established and existing under the Previous Development Ordinances that have been rendered non-conforming under the new San Marcos Development Code.

**D.** The City may continue to enforce zoning-related rules, standards and conditions applicable to and governing uses for which unexpired conditional use permits issued under the Previous Development Ordinances were in effect as of the effective date of this ordinance.

**SECTION 5.** Any person violating any provision of this ordinance commits a misdemeanor and, upon conviction, is subject to the penalties provided in Section 1.015 of the San Marcos City Code or the San Marcos Development Code, as applicable.

**SECTION 6.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

**SECTION 7.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 8.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 9.** This ordinance will take effect upon publication in a newspaper of general circulation within the City within ten days after the date of its final passage.

**PASSED AND APPROVED** on first reading on February 20, 2018.

**PASSED, APPROVED AND ADOPTED** on second reading on April 17, 2018.

John Thomaides  
Mayor

Attest:

Approved:

Jamie Lee Case  
City Clerk

Michael J. Cosentino  
City Attorney

**EXHIBIT A**  
**San Marcos Development Code and Design Manual**