

ORDINANCE NO. 2022 - ____

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 138-166 THROUGH 138-171 OF THE NEW BRAUNFELS CODE OF ORDINANCES; REPEALING ALL LAWS IN CONFLICT; PROVIDING A SAVINGS CLAUSE AND SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, CREATING A WATER RECREATION SHUTTLE PERMIT RENEWAL PROCESS WILL BE MORE EFFICIENT FOR BOTH RIVER OUTFITTERS AND CITY STAFF.

WHEREAS, THE RESPONSIBILITY OF PERMITTING WATER RECREATION SHUTTLE PERMITS WILL MOVE FROM THE CITY SECRETARY'S OFFICE TO THE RIVER OPERATIONS DIVISION.

WHEREAS, THE RIVER ADVISORY COMMITTEE MET ON JANUARY 20, 2022 TO DISCUSS AND CONSIDER THE RECOMMENDED CHANGES.

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

SECTION 1: The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2: That Section 138-166 through 138-171 of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows, with changes indicated by the use of ~~strikeout font~~ for deleted language and underlined font for new language:

ARTICLE VI. WATER RECREATION SHUTTLE SERVICES¹

Sec. 138-166. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated storage compartment means a separated compartment inside the shuttle that is used to transport kayaks, rafts, and inner tubes. The designated storage compartment must not block any emergency exits or slow access to emergency exits. The designated storage compartment must be separated from shuttle riders and secured to the shuttle sides in a manner and with material to prevent 400 pounds from breaching.

Water recreation shuttle vehicle means every automobile or motor-propelled vehicle used for the transportation of individuals in connection with tubing, rafting, or similar water recreation activities within the city limits. A vehicle shall be deemed to be a "shuttle vehicle" whether or not the vehicle operates on a regular fixed route within the city and whether or not the business operating the vehicle is principally located within the city limits, so long as the vehicle is operating on the public streets of the city. As of January 1, 2011, the only allowable shuttle vehicles will be those designed by the manufacturer to commercially carry passengers.

Unattended shuttle means a shuttle vehicle with no operator in the driver seat or river outfitter staff standing next to shuttle entrance door. When the driver is loading or unloading water-oriented recreation equipment at the rear of shuttle vehicle, said shuttle vehicle will be deemed unattended

¹Editor's note(s)—Ord. No. 2014-14, § 1(Exh. A), adopted February 24, 2014, repealed and reenacted article VI in its entirety to read as herein set out. Formerly, article VI pertained to similar subject matter, and derived from Ord. No. 2010-15, § 1, adopted March 8, 2010.

Cross reference(s)—Businesses, ch. 18; parks and recreation, ch. 86; traffic and vehicles, ch. 126; waterways, ch. 142.

(Ord. No. 2014-14, § 1(Exh. A), 2-24-14)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 138-167. Water recreation shuttle permit.

- (a) It shall be unlawful to operate a water recreation shuttle vehicle within the city limits, regardless of number of passengers, without having obtained a city-issued Guadalupe River water recreation shuttle vehicle permit or a Comal River water recreation shuttle vehicle permit. No water recreation shuttle vehicle permit shall be issued until the owner or person in charge of such water recreation shuttle vehicle submits an application in a form approved by the city for a new water recreation shuttle permit or renews an existing water recreation shuttle permit from the previous year, , pays the required permit fee described in this section, meets the required safety standards as prescribed by section 138-168, and submits the following required information and any additional information that may be requested by the city:
- (1) Name of owner or person seeking water recreation shuttle vehicle permit;
 - (2) Street address of business;
 - (3) City of New Braunfels issued certificate of occupancy for a shuttle business (a certificate of occupancy must be submitted as part of the application in order to be authorized to use the city-owned public river entry/exit locations as identified in section 138-170. Applicants that do not provide a valid city certificate of occupancy may receive a limited water recreation shuttle vehicle permit that prohibits the applicant from using city-owned public river entry/exits for dropping off or picking up their customers.);
 - (4) Description of vehicle or vehicles, including vehicle type, seating capacity as determined by the manufacture, license plate number, and factory number of each vehicle;
 - (5) Name of registered titleholder of each vehicle;
 - (6) Proof of State of Texas vehicle registration for each vehicle; and
 - (7) Proof of insurance as required by state law;
 - (8) Statement of which water recreation shuttle permit is being applied for: Guadalupe River, Comal River, or both.
 - (9) Water recreation shuttle permit renewals will require a statement that required safety standards are met, as prescribed by section 138-168.
- (b) The water recreation shuttle permit described in this section is not a taxicab license as described in article II of this chapter, and the water recreation shuttle vehicle permit holder shall not be considered a licensed taxicab, nor have the rights, privileges, and obligations as described in articles I, II and III. Any vehicle previously or hereafter licensed as a taxicab under article II shall not be deemed to have a water recreation shuttle vehicle permit under the provisions of this article unless a separate application is made, and a separate water recreation shuttle permit is obtained.
- (c) The water recreation shuttle permit fee shall be \$50.00. A water recreation shuttle permit fee shall be charged by the city for each water recreation shuttle vehicle permitted and an additional \$50.00 for additional Comal or Guadalupe River water recreation shuttle permits for a vehicle. All fees earned from water recreation shuttle permits under this subsection (c) shall be placed in the River Activities fund for the purpose of managing river related issues and activities. The annual water recreation shuttle permit shall be valid from January 1 through December 31 of each year issued. The initial permit year shall be effective from the date the permit is issued through December 31 of the same year. There shall be no prorating of the permit fee. The reapplication procedure shall be a revision of the previous year's water recreation shuttle

permit application submitted to the city. Upon approval or renewal of an application, the city shall supply a permit sticker to be prominently displayed on each water recreation shuttle vehicle. Water recreation shuttle permits shall not be transferable from one vehicle to another.

- (d) The water recreation shuttle permit described in this section must be posted above the state registration sticker and all outdated permits must be removed.
- (e) Guadalupe River Water Recreation Shuttle Permits allow access only to the Guadalupe River and associated shuttle zones, and:
 - (1) The number of permitted water recreation shuttles available for the Guadalupe River is limited due to the limited space available at Cypress Bend Park. The number of Guadalupe River water recreation shuttle permits will be determined on an annual basis by the City Manager or their designee. Distribution of Guadalupe River water recreation shuttle permits using Cypress Bend Park will be determined by, but not limited to, the following criteria:
 - a. Historical use of a Guadalupe River Water Recreation Shuttle Permit.
 - b. Historical record of compliance with state laws pertaining to vehicles and trailers.
 - c. Historical compliance with city ordinances including but not limited to:
 - Chapter 138, article VI—Water recreation shuttle services
 - Chapter 86, article V—River management fee wristbands
 - Chapter 86, article VI—River management fee
 - d. The date and time in which a new application is received.
 - (2) Guadalupe River Water recreation shuttle permits must be applied for or renewed by May 1st of each year unless a replacement shuttle is required.
 - (3) Only shuttles operating with a certificate of occupancy Guadalupe River water recreation shuttle permit may operate said shuttle in the area designated for use by Guadalupe River water recreation shuttle permits (see subsection 138-170(b)).
- (f) Comal River water recreation shuttle permits allow access only to the Comal River and associated shuttle zones, and:
 - (1) The number of permitted shuttles available for the Comal River is limited due to limited space at the Union Street's Last Tuber's Exit. The number of Comal River water recreation shuttle permits will be determined on an annual basis by the city manager or their designee. Distribution of Comal water recreation shuttle permits will be determined by, but not limited to, the following criteria:
 - a. Historical use of a Comal water recreation shuttle permit.
 - b. Historical record of compliance with state laws pertaining to vehicles and trailers.
 - c. Historical compliance with city ordinances including but not limited to:
 - Chapter 138, article VI—Water recreation shuttle services
 - Chapter 86, article V-River activity wristbands
 - Chapter 86, article VI—River management fee
 - d. The date and time in which a new application is received.
 - (2) Comal River water recreation shuttle permits must be applied for, or renewed, and purchased by May 1st of each year unless a replacement shuttle is required for an existing permit.

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Sec. 138-168. Safety inspection; safety requirements.

(1) Water Recreation shuttle vehicles may be one of the following:

- If the laws of the state provide stricter requirements, or if the laws of the state are amended to provide stricter requirements, the regulations of the state law shall prevail over this article.

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- (3) All water recreation shuttle vehicles must provide one seat for each occupant. All occupants must be seated while the vehicle is in motion except in those vehicles equipped with manufacturer aisle grab bars.
 - (4) All seats must be firmly anchored (bolted) to the floor.
 - (5) The maximum possible capacity of each water recreation shuttle vehicle shall be the same as the number of seats in the shuttle vehicle. It shall be unlawful to exceed maximum capacity. The maximum capacity of the shuttle vehicle shall be established at the time of inspection according to original manufacturer design. Starting in 2011, bench style seating will no longer be allowed, unless it was installed as original equipment on the vehicle or is approved by the manufacturer of the vehicle as additional equipment.

At the time of inspection, the city shuttle inspector shall record occupancy. An official city occupancy sign will be provided to the water recreation shuttle vehicle owner to be displayed at the front of the vehicle. Alterations to the sign or changing the location of same by the operator are prohibited. When possible, the city shuttle inspector will post the occupancy sign above the driver window or in the front of the vehicle, in plain sight for customers and inspectors. Tampering or altering with the occupancy sign shall result in immediate suspension of a shuttle permit.

- (6) Open shuttle vehicles are not permitted.
 - (7) All water recreation shuttle vehicles shall be equipped with a fire extinguisher with a minimum rating of 1A:10 B.C. Extinguishers must be properly mounted or hung in the shuttle and have a current inspection tag (including newly purchased extinguishers).
 - (8) The water recreation shuttle permit holder is responsible for ensuring that the brakes, steering wheel, rear view mirror, lights, tires, horns, seatbelts, windshield wipers, and turn signals all operate properly and meet all minimum state law safety requirements.
 - (9) All water recreation shuttle vehicle operators shall hold the appropriate driver's license required by state law that is required for the particular type of vehicle being operated.
 - (10) All water recreation shuttle vehicles must be marked on the front and/or back and both sides of each vehicle to prominently display the name of the outfitter business for which the shuttle company is transporting. The prominent display of the water recreation shuttle business must be in a city approved contrasting color and lettering must be no less than six inches in height and 5/8-inch block stroke lettering, or in the event the required size font does not properly fit on a smaller shuttle vehicle an exception for the font size may be granted at the discretion of the fire marshal's office.
 - (11) Water recreation shuttle doors must be closed when shuttle is in motion. Furthermore, shuttle doors must operate per manufacturer standards including locking when in motion.
 - (12) All manufacturer emergency exits and secondary exits must be unobstructed and operational.
 - (13) All water recreation shuttles must have adequate storage space for water-oriented recreation equipment. The transportation of water-oriented recreation equipment in the occupied passenger compartments of permitted shuttle vehicles is prohibited except in designated storage compartments. Ice chests and personal belongings of the customers must be safely secured under the seats if they are to be transported inside the shuttle vehicle and out of the designated storage compartment.
 - (14) All trailers towed by water recreation shuttles must meet state motor vehicle safety regulations. Trailers must also be secured to the tow vehicle by a combination or key lock (both the hitch mechanism and receiver pin if applicable). All trailer doors must be securely fastened to prevent opening while the vehicle is in motion.
 - (15) Refusal, notification of right of access, and final request for access. The Police Department, Fire Department, or other designated city staff will conduct periodic random safety inspections to ensure
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compliance with all safety requirements. Safety inspection may be performed at any time and at any location within the city limits and extraterritorial jurisdiction of New Braunfels, including private property.

If a person denies access to the regulatory authority, the regulatory authority shall:

- a. Inform the person that:
 1. The permitted entity is required to allow access to the regulatory authority as specified under this subsection;
 2. Access is a condition of the acceptance and retention of a permit to operate as specified under this subsection; and
 3. If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection warrant, may be obtained according to law; and
- b. Make a final request for access.

(Ord. No. 2014-14, § 1(Exh. A), 2-24-14; Ord. No. 2018-74, § 2, 10-22-18)

Sec. 138-169. Public liability insurance.

- (a) Before any water recreation shuttle vehicle permit shall be issued or renewed, the owner or operator shall be required to file with city staff, and thereafter keep in force and effect, a policy of public liability insurance executed by an insurance company fully authorized to do business in this state and performable in this county, insuring the public against any loss or damage that may result to any person or property from the operation of such shuttle vehicle or vehicles. Such insurance coverage shall be in accordance with the following requirements, but in no instance shall coverage be less than the state's minimum requirements listed in the Texas Administrative Code, Section 218.16, Insurance Requirements, as amended:
 - (1) For bodily injury or death of any one person in any one accident, \$500,000.00;
 - (2) For bodily injury or death of two or more persons in any one accident, \$1,000,000.00; and
 - (3) For property damage in any one accident, \$100,000.00; or
 - (4) In the alternative to subsections (a)(1), (2) and (3), combined single limit liability for any one accident, in the amount of \$1,000,000.00.
- (b) The required insurance policy described in this section must contain a provision that the city must be notified at least 30 days in advance of any cancellation or termination of the insurance coverage.

(Ord. No. 2014-14, § 1(Exh. A), 2-24-14; Ord. No. 2018-74, § 2, 10-22-18)

Sec. 138-170. Shuttle entry/exit points.

- (a) The following city property may be used by shuttle vehicles having a Comal River water recreation shuttle permit and a city certificate of occupancy as shuttle entry or exit points for passengers engaged in water recreation activity:
 - (1) Shuttle zone at Prince Solms Park.
 - (2) Shuttle zone at Hinman Island Drive.
 - (3) Shuttle zone at Union Street's Last Tuber's Exit.

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- (b) The following city property may be used by shuttle vehicles having a Guadalupe River water recreation shuttle permit and a City of New Braunfels Certificate of Occupancy as shuttle exit points for passengers engaged in water recreation activity:
- Shuttle zone at Cypress Bend Park.
- (c) No city park, right-of-way, or city property other than as described in subsections (a) and (b) may be used by a shuttle vehicle as an entry or exit point for its passengers in connection with water recreation activity. The picking up of passengers must only be in designated shuttle zones established and marked by the city.
- (d) Only properly permitted and identified shuttle vehicles may access public shuttle zones.
- (e) Any city water recreation shuttle permit holder shall collect from each passenger and remit to the city a river management fee in the amount of \$2.00 for each person transported from locations on the Comal River and Guadalupe River down river from the Gruene Road bridge within the corporate territorial limits of the city, unless said passenger has already paid a river management fee for the rental of water-oriented recreational equipment, as described by chapter 86, article V of this Code. A river management fee is valid only for the date that it is collected.
- (f) During normal business hours, Comal River permitted water recreation vehicles shall be exempted from paying the required parking fee at Prince Solms Park while dropping off or picking up customers. Shuttle vehicles will not be allowed to park in Prince Solms Park, but will be allowed to drive through the parking area for the purpose of dropping off customers.
- (g) At Last Tubers Exit on the Comal River, all water-oriented recreational equipment must be transported on the same shuttle as the customer who rented them. The stacking of water-oriented recreational equipment at an entry or exit for transport at a later time is prohibited. Water-oriented recreational equipment stacked in the public right-of-way will be deemed abandoned property, a prohibited obstruction, and subject to immediate removal by city or at city direction and subject to fines by the responsible party.
- (h) River outfitter staff working public loading zones, including drivers of shuttle vehicles that utilize public loading zones, must be identified by a river outfitter business uniform shirt and company badge. Uniforms must have the same name of the permitted shuttle vehicle they are driving.
- (i) On Saturdays, Sundays, and holidays, shuttle vehicles at public loading zones may not be left unattended for more than five minutes. The ignition keys must be removed from the shuttle vehicle before it may be left unattended.
- (j) Shuttle vehicles left unattended beyond the maximum allowable time period are subject to towing at the owner's expense.

(Ord. No. 2014-14, § 1(Exh. A), 2-24-14; Ord. No. 2014-23, § 3, 3-24-14; Ord. No. 2016-02, § 2, 1-25-16; Ord. No. 2018-74, § 2, 10-22-18)

Sec. 138-171. Penalties for violation of article.

Any person or agent who shall violate a provision of this article or who fails to comply therewith shall be deemed guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this article is committed or continued, and upon conviction in the court of jurisdiction for any such violation, such person shall be punished by a fine of not more than \$500.00. A Guadalupe or Comal River recreation shuttle permit shall be suspended until compliance is attained, or in the event of safety violations or repeated delinquent payments revoked immediately. Operating a water recreation shuttle in disregard of the city manager's order to cease operating shall be considered a separate offense punishable under this section. The city manager may place additional requirements which must be met and maintained prior to withdrawing a suspension order of a suspended Guadalupe or Comal River water

recreation shuttle permit. Revoked Guadalupe or Comal River water recreation shuttle permits may be reissued by the city manager according to the terms of this article.

(Ord. No. 2014-14, § 1(Exh. A), 2-24-14)

Secs. 138-172—138-180. Reserved.

SECTION 3: All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only. 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 4: 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 5: In accordance with the provisions of Section 3.10 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 6: This Ordinance shall become adopted and effective upon its final reading, signature and publication 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.

PASSED AND APPROVED: First reading this ____ day of _____, 2022.

PASSED AND APPROVED: Second reading this ____ day of _____, 2022.

CITY OF NEW BRAUNFELS, TEXAS

RUSTY BROCKMAN

ATTEST:

Gayle Wilkinson, Interim City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney