

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 86-17, GRUENE ROAD RIVER BRIDGE WATER SAFETY ZONE, OF THE NEW BRAUNFELS CODE OF ORDINANCES; ADOPTING A TEMPORARY SAN ANTONIO STREET BRIDGE SAFETY ZONE DURING TXDOT CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING A FINE NOT TO EXCEED \$500.00 FOR AN OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation is proceeding with reconstruction of the San Antonio Street Bridge; and

WHEREAS, the public use of the Comal River beneath and within Comal River may result in rafters, tubers, swimmers, or other users of the Comal River to unknowingly entering the unsafe construction area in and around the bridge; and

WHEREAS, entering the construction area would be detrimental to the public health, safety, and welfare, of the public; and

WHEREAS, the Texas Water Safety Act, Texas Parks and Wildlife Code §31.092, provides for local regulation with respect to public water within a city's corporate limits and all the lakes owned by it, and allows a city to designate by ordinance certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety; and

WHEREAS, the City Council has determined, in the best interest of the residents and visitors of the City of New Braunfels, that the construction site and area surrounding the San Antonio Street Bridge should be declared a restricted area for a limited time during construction.

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

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 the Code of Ordinances, City of New Braunfels, Texas is hereby amended by repealing Section 86-17, and the City Council adopts an ordinance that establishes the San Antonio Street Bridge Safety Zone and related provisions is hereby adopted and shall read as follows:

~~86-17. Gruene Road River Bridge Safety Zone.~~

~~(a) It shall be unlawful for any person on the Guadalupe River to enter the Gruene Road Guadalupe River Bridge restricted area. The restricted area shall be marked upstream of the bridge by buoys directing the public to exit the Guadalupe River to the West Bank. The restricted area is generally described as the following: an area generally described as the Right of Way of the Gruene River Bridge over the Guadalupe River and extending 100 feet downstream of the bridge Right of Way within the banks of the Guadalupe River and extending 250 feet upstream of the bridge Right of Way along the east bank and 60 feet upstream of the bridge Right of Way along the west bank within the banks of the Guadalupe River. This ordinance shall terminate upon the reopening of the Gruene Road River Bridge to vehicular and pedestrian traffic.~~

~~(b) Exceptions to the prohibition within this ordinance includes bridge construction workers, maintenance crews, on duty governmental personnel, and other similarly authorized personnel.~~

~~(c) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Guadalupe River, which float commences upstream of the Gruene Road River Bridge, shall be responsible for providing sufficient personnel to assure the safe and expeditious exit of persons and removal of flotation devices from the Guadalupe River at the restricted area.~~

~~(d) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Guadalupe River, which float commences upstream of the Gruene Road River Bridge, shall be responsible for posting and providing adequate notice of the restricted area similar to the following: "Gruene Road Bridge Construction, you must exit the Guadalupe River and stay out of restricted area marked by buoys and other markers".~~

~~(e) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor offense punishable by a fine not to exceed \$500.00 for each offense.~~

Establishment of San Antonio Street Bridge Safety Zone

(a) Beginning September 23, 2019, and for a limited duration to be determined by the city manager, it shall be unlawful for any person on the Comal River to enter the restricted area referred to as the San Antonio Street Bridge Safety Zone and depicted in Exhibit A attached to this ordinance. The restricted area shall be marked up stream of the bridge by buoys directing the public to exit the Comal River to the north bank of the Comal River. The restricted area is depicted in Exhibit A and generally described as the right-of-way of the San Antonio Street Bridge over the Comal River and extending 256 feet upstream of the bridge right-of-way along the south bank within the banks of the Comal

River and extending 190 feet upstream of the bridge right-of-way along the north bank and extending 50 feet downstream of the bridge right-of-way along the north bank within the banks of the Comal River, and 67 feet downstream of the bridge right-of-way along the south bank within the banks of the Comal River.

(b) Exceptions to the prohibition within this ordinance includes bridge construction workers, maintenance crews, on-duty governmental personnel, and other similarly authorized personnel.

(c) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Comal River, which float commences up stream of the San Antonio Street Bridge and shall be responsible for providing sufficient personnel to assure the safe and expeditious exit of persons and removal of flotation devices from the Comal River at the restricted area.

(d) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Comal River, which float commences up stream of the San Antonio Street Bridge, shall be responsible for posting and providing adequate notice of the restricted area similar to the following: **“San Antonio Street Bridge Safety Zone, You Must Exit the Comal River and stay out of the restricted area marked by buoys and other markers.”**

(e) This ordinance shall terminate upon the announcement by the City Manager that Comal River activities can safely and lawfully resume in the San Antonio Street Bridge Safety Zone. The announcement shall be published one time in the local newspaper.

(f) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor offense punishable by a fine not to exceed \$500.00 for each offense.

SECTION 3. 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. 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. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. In accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance shall become adopted and effective ten (10) days after the date of publication in a newspaper pursuant to the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this _____day of August, 2019.

PASSED AND APPROVED: Second reading this _____day of September, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney