

## **ORDINANCE NO. 2018-**

**AMENDING THE CITY OF NEW BRAUNFELS, TEXAS, CODE OF ORDINANCES CHAPTER 138-VEHICLES FOR HIRE, ARTICLE VI-WATER RECREATION SHUTTLE SERVICES, SECTIONS 138-167 to 138-170, TO CLARIFY THE NEED FOR CERTIFICATE OF OCCUPANCY TO UTILIZE PUBLIC RIVER ENTRANCES AND EXITS, REMOVE THE REQUIREMENT OF A SHUTTLE POSTER, AND CREATE A LIMIT TO THE NUMBER OF COMAL AND GUADALUPE RIVER SHUTTLE PERMITS THAT ARE AVAILABLE; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, all water recreation shuttle operators who operate in the City of New Braunfels require an inspection and shuttle permit to operate in the City; and

WHEREAS, amendments to the number of Comal River Shuttle Permits from unlimited to limited is recommended due to the limited available space at the shuttle zone by the Last Tuber's Exit on Union Street and Lincoln Street; and

WHEREAS, amendments to the number of Guadalupe River Shuttle Permits from unlimited to limited is recommended due to the limited available space at Cypress Bend Park; and

WHEREAS, the proposed ordinance revision includes criteria that will be used when determining who will be first to be eligible to receive a Comal or Guadalupe Shuttle Permit, such as: historical use of a River Shuttle Permit, historical record of compliance with Texas law and City ordinances; and

WHEREAS, this amendment also includes minor cleanup changes to the ordinance that make it read clearer and align it with current practices.

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 are hereby adopted by the City Council and made a part hereof for all purposes.

### **Section 2**

That Chapter 138, Article VI-Water Recreation Shuttle Services, Sections 138-167 to 138-170 will be amended to read as follows:

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 shuttle vehicle permit or a Comal River shuttle vehicle permit issued. No shuttle vehicle permit shall be issued until the owner or person in charge of such shuttle vehicle makes application in writing to the city secretary, 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:
- (1) Name of owner or person seeking 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 of New Braunfels certificate of occupancy may receive a limited shuttle 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, horsepower, and factory number;
  - (5) Name of registered titleholder of each vehicle;
  - (6) Proof of State of Texas safety inspection sticker for each vehicle; and
  - (7) Proof of insurance as required by state law;
  - (8) Statement of which permit is being applied for: Guadalupe River, Comal River, or both.
- (b) The permit described in this section is not a taxicab license as described in article II of this chapter, and the shuttle vehicle permit holder shall not be considered a licensed taxicab, nor have the rights and 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 shuttle vehicle permit under the provisions of this article unless separate application is made and a separate permit is obtained.
- (c) The permit fee shall be \$50.00 per inspection and re-inspection. A permit fee shall be charged by the City for each shuttle vehicle permitted and an additional \$50.00 for additional Comal or Guadalupe River permits for a vehicle. All fees earned from 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 permit shall be valid from January 1 through December 31 of each year issued. The initial permit year shall be considered to 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 the same as described in subsection (a). Upon approval or renewal of an application, the city shall supply a permit sticker to be prominently displayed on each shuttle vehicle. Permits shall not be transferable from one vehicle to another.
- (d) The permit described in this section must be posted above the state inspection and registration stickers and all outdated permits must be removed before a new permit will be issued.
- (e) Guadalupe River Water Recreation Shuttle Permits allow access only to the Guadalupe River and associated shuttles zones, and:
- (1) The number of permitted shuttles available for the Guadalupe River is ~~un~~limited due to the limited space available at Cypress Bend Park. The number of permits will be determined on an annual basis by the City Manager or their designee. Distribution of Guadalupe River permits using Cypress Bend Park will be determined by, but not limited to, the following criteria:
    - (i) Historical use of a Guadalupe Shuttle Permit
    - (ii) Historical record of compliance with state laws pertaining to vehicles and trailers
    - (iii) Historical compliance with City Ordinances including but not limited to:

-Chapter 86 Article V- River Activity Wristbands

- Chapter 86 Article VI- River Management Fee

(2) Permits must be purchased 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 shuttle permit may operate said shuttle in the area designated for use by Guadalupe River permits. (Reference 138-170(b))

(f) Comal River Water Recreation Shuttle Permits allow access only to the Comal River and associated shuttles zones, and:

(1) The number of permitted shuttles available for the Comal River is ~~unlimited~~ due to limited space at the Union Street's Last Tuber's Exit The number of permits will be determined on an annual basis by the City Manager or their designee. Distribution of Comal Shuttle permits will be determined by, but not limited to, the following criteria:

(i) Historical use of a Comal Shuttle Permit

(ii) Historical record of compliance with state laws pertaining to vehicles and trailers

(iii) Historical compliance with City Ordinances including but not limited to:

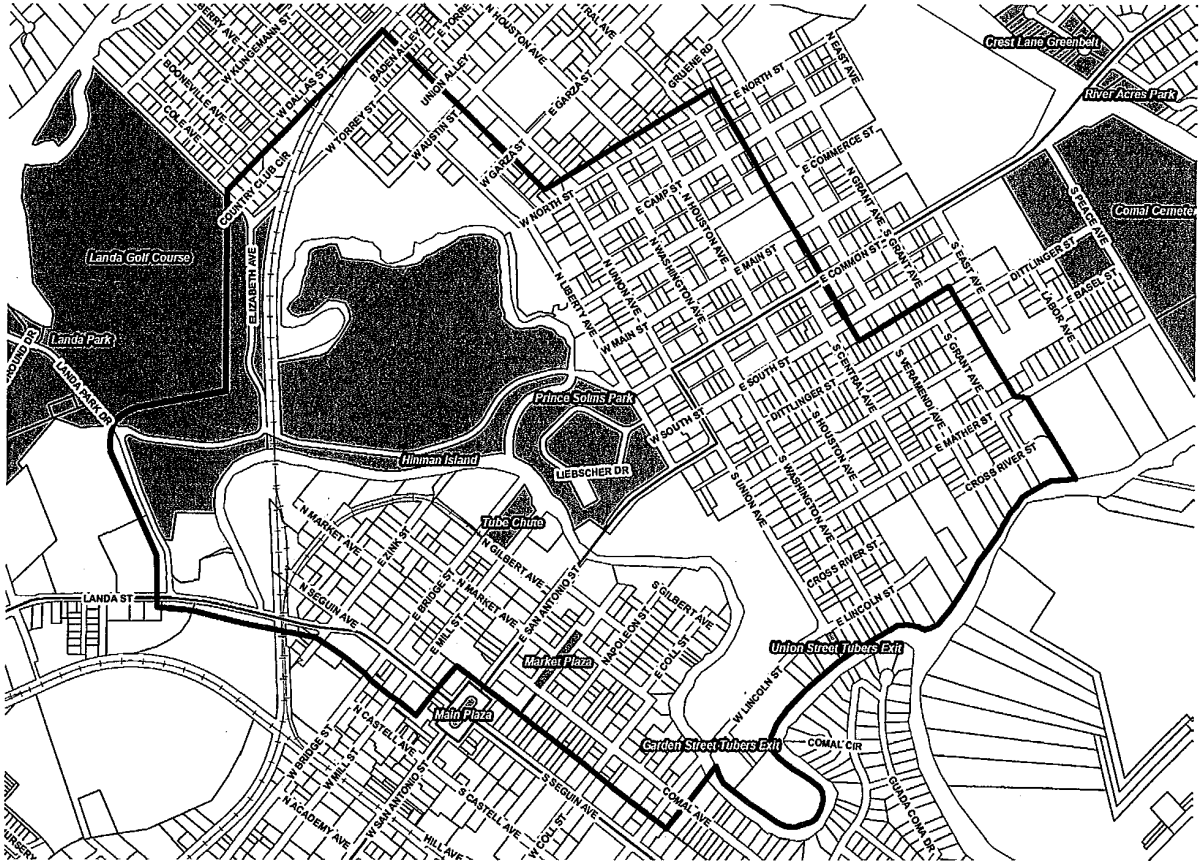
Chapter 138 Article VI – Water Recreation Shuttle Services

-Chapter 86 Article V- River Activity Wristbands

- Chapter 86 Article VI- River Management Fee

(2) Permits must be purchased or renewed by May 1st of each year unless a replacement ~~or new~~ shuttle is required.

(3) Only shuttles operating with a Certificate of Occupancy Comal River shuttle permit may operate said shuttle in the area designated for use by Comal River shuttle permits. (Reference: Comal River water recreation shuttle permit boundary map.)



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

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

Before a permit is issued or renewed under this article, a safety inspection will be conducted. Inspections will be scheduled in advance with the fire marshal's office. All shuttle vehicles must meet the following requirements before a permit shall be issued:

- (1) Shuttle vehicles may be one of the following:
  - a. Passenger van;
  - b. Bus;
  - c. Other shuttle designed by the manufacturer to commercially transport people; or
  - d. Cab of truck.

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.

- (2) All shuttle vehicles seats must be backed and must be bench, bus type, or individual seats.
- (3) All shuttle vehicles must be provided 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 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 provide and post an official city occupancy sign. 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 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 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 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 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 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 may for the font size may be granted at the discretion of the fire marshal's office.
- (11) 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 shuttles must have adequate storage space for tubes, rafts and kayaks. The transportation of tubes, rafts and kayaks in the occupied passenger compartments of permitted shuttles 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 and out of the designated storage compartment.
- (14) All trailers towed by 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, or other designated city staff, will conduct periodic random safety inspections to ensure 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)

Sec. 138-169. - Public liability insurance.

- (a) Before any shuttle vehicle permit shall be issued or renewed, the owner or operator shall be required to file with the city secretary, and thereafter keep in force and effect, a policy of public liability insurance executed by an insurance company duly 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; such insurance coverage shall be not less than the state's minimum requirements:
  - (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)

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

- (a) The following city property may be used by shuttle vehicles having a Comal River shuttle permit and a City of New Braunfels 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.
- (b) The following city property may be used by shuttle vehicles having a Guadalupe River 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 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 inner tubes must be transported on the same shuttle as the tuber who rented them. The stacking of tubes at an entry or exit for transport at a later time is prohibited. Tubes 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) Outfitter staff working public loading zones, including drivers of shuttles that utilize public loading zones, must be identified by an outfitter business uniform shirt and company badge. Uniforms must have the same name of the permitted shuttle they are driving.
- (i) On Saturdays, Sundays, and holidays, shuttles at public loading zones may not be left unattended for more than five minutes. The ignition keys must be removed from the shuttle before it may be left unattended.
- (j) Shuttles 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)

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

### **Section 5**

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.

**PASSED AND APPROVED:** First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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**CITY OF NEW BRAUNFELS, TEXAS**

By: \_\_\_\_\_  
**Barron Casteel, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Patrick D. Aten, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Valeria M. Acevedo, City Attorney**