ORDINANCE NO.

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS AMENDING CHAPTER 126, RENUMBERING ARTICLE 'X'-ENFORCEMENT, TO 'XI'; ADDING A NEW ARTICLE 'X' ENTITLED 'GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES; TO ALLOW THE OPERATION OF GOLF CARTS AND NEIGHBORHOOD ELECTRIC VEHICLES ON CERTAIN PERMITTED STREETS AND LOCATIONS; PROVIDING DEFINITIONS; REQUIRING REGISTRATION, SPECIFIED SAFETY EQUIPMENT, OPERATIONAL REGULATIONS; REQUIRING FINANCIAL RESPONSIBILITY; PROVIDING FOR A PENALTY, A SAVINGS CLAUSE, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Texas Transportation Code authorizes the governing body of a municipality to regulate and control the operation of golf carts and neighborhood electric vehicles within the city's legal boundaries and on its public streets to ensure the public safety of the community; and,

WHEREAS, the Texas Transportation Code additionally authorizes the governing body of a municipality to regulate and enforce other standards of operation which may be particular to its unique situation; and,

WHEREAS, use of golf carts and neighborhood electric vehicles can help to reduce overall emissions and their use is an eco-friendly or 'green' alternative to traditional passenger vehicles; and,

WHEREAS, golf carts and neighborhood electric vehicles are not normally equipped with many of the traditional safety features that are customarily required or found on more commonly-used motor vehicles; and,

WHEREAS, passenger ejection and injuries can be reduced in an urban setting by requiring additional safety equipment and providing rules of operation.

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

SECTION 1. Findings.
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 Chapter 126, Article X, of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

ARTICLE X. GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES
Sec. 126.476. Definitions. These terms shall have the following meanings:

**All-terrain vehicle** means a motor vehicle that is:

A) equipped with a seat or seats for the use of:
   (i) the rider; and
   (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
B) designed to propel itself with three or more tires in contact with the ground;
C) designed by the manufacturer for off-highway use;
D) not designed by the manufacturer primarily for farming or lawn care and
E) not more than 50 inches wide.

**City** means the City of New Braunfels, Texas.

**Driver's License** means an authorization issued by the Department of Public Safety for operation of a motor vehicle. The term includes a temporary license or instruction permit and an occupational license.

**Golf cart** shall have the meaning assigned by the Texas Transportation Code Section 502.001, as amended, which currently defines it as a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course. It must have a minimum of four wheels and has an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. **

**Neighborhood Electric Vehicle (NEV)** means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard No. 500; Low-Speed Vehicles (Effective 6-17-98). This standard specifies requirements for low-speed vehicles. A low-speed vehicle is a 4-wheeled motor vehicle, other than a truck, whose attainable speed is more than 32 km/h (20 mph) and not more than 40 km/h (25 mph). The standard requires ten specific items of safety equipment. [Not listed. See Texas Transportation Code Section 551.301] ** Has a normal maximum speed of 20-25 mph (LSV) or 20-35 mph (NEV).

Specifically excluded from the definitions of **golf cart** and **NEV** are those motorized conveyances commonly referred to as all-terrain vehicles ("ATVs"), off-road vehicles (also known as ROVs), four-wheelers, mules, gators and design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

**Operate** shall mean the driving of a golf cart.

**Operator** means any person driving and having physical control over the golf cart.
**Park or parking** means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

**Parking area** means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

**Recreational off-highway vehicle** means a motor vehicle that is:

A) equipped with a seat or seats for the use of:
   (i) the rider; and
   (ii) a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
B) designed to propel itself with four or more tires in contact with the ground;
C) designed by the manufacturer for off-highway use by the operator only; and
D) not designed by the manufacturer primarily for farming or law care.

**Street** means a public roadway of the City of New Braunfels, Texas by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that is open to vehicular traffic and:

(a) provides for no more than two lanes of vehicular traffic per direction; or
(b) is not designated as part of either the state or federal highway system.

**Section 126.477. Permitted Streets.**
(a) Golf carts and NEVs registered with the City are permitted to be operated on:

(1) streets ("permitted streets") where the posted speed limit is 35 miles per hour or less, and the street is not designated as part of a state highway system;

(2) a "public highway" as defined by the Texas Transportation Code, Section 502.001, if the public highway is in the corporate limits of the City, and the posted speed limit is 35 miles per hour or less; and,

(3) a parking area as defined by this ordinance.

(b) Vehicles that are operated in accordance with state law do not need to be registered with the city. Such vehicles can only be operated as limited in Texas Transportation Code Sections 551.403 (golf carts) and 551.304 (NEVs).

**Section 126.478. Limited Operation.**
(a) Golf carts and NEVs shall be prohibited on any roadway in the State Highway System including Farm to Market Roads located within the corporate boundaries of
the city regardless of the speed limit on that portion of the State Highway or Farm to Market Road. A state highway system includes, but is not limited to, Interstate Highway 35, Loop 337, SH 46, Business 46, FM 725, Business 35, FM 1044, FM 758, FM 1101, FM 306, FM 1102, FM 482 and FM 2722.

(b) Golf carts are limited to streets with a posted speed limit of not more than 35 miles per hour and may cross intersections, even if it is not a permitted street under this ordinance, where the cross street has a posted speed limit of more than 35 miles per hour.

(c) NEVs are limited to streets with a posted speed limit of not more than 35 miles per hour and may cross intersections, even if it is not a permitted street under this ordinance, where the cross street has a posted speed limit of more than 45 miles per hour.

Section 126.479. Registration Permit.
(a) Before any golf cart may be operated on any permitted street, public highway, or parking area of the City ("permitted locations"), it must be registered by the Texas Department of Motor Vehicles and display the license plate as mandated by the Texas Transportation Code, Section 551.402.

(b) In addition to any state requirement for registration, all golf carts and NEVs operated on permitted locations shall be registered with the City. The Chief of Police shall establish registration procedures and shall cause a permit to be issued to all applicants who have fulfilled the proper registration requirements. The City Council of the City shall review and approve the registration requirements before the requirements are effective.

(c) The cost for the permit from the City shall be $20.00, and the permit shall expire on December 31st of the following year.

Section 126.480. Revocation.
The registration permit may be revoked if:
   a) The owner or driver of a golf cart fails to abide by the rules and regulations of this ordinance;
   b) The owner or driver of a golf cart fails to abide by the traffic laws and the use of a golf cart on any authorized street or parking area; or
   c) The owner fails to maintain proof of financial responsibility during the entire permit registration period.

Section 126.481. Transfer.
The registration permit is not transferable. Upon transfer of ownership of the golf cart to a person who intends to operate it over authorized streets and parking areas, the new
owner must register the golf cart and pay the registration permit fee as outlined
hereinafore in Section 126.479.

Section 126.482. Required equipment-Golf Carts.
(a) A golf cart properly registered under Section 126.479 of this ordinance must be
equipped with the following equipment as mandated by the Texas Transportation Code,
Section 551.404(a), as amended, and/or required by the City of New Braunfels to
operate on permitted locations:

- (1) operational headlamps;
- (2) operational tail lamps;
- (3) side reflectors;
- (4) operational parking brake; and,
- (5) rearview mirror(s)
- (6) turn signals;
- (7) horn;
- (8) brake lights; and
- (9) seat belts

(b) A golf cart that is operated at a speed of not more than 25 miles per hour shall
display a slow-moving-vehicle emblem when it is operated on a public highway, as
defined by Texas Transportation Code, Section 502.001.

(c) Equipment and its installation must meet standards provided by Texas
Transportation Code, as amended.

(d) All such safety equipment shall be maintained as required by state law.

Section 126.483. Required equipment-NEVs.
(a) A neighborhood electric vehicle (NEV) properly registered under Section 126.479 of
this ordinance must be equipped with the following equipment as mandated by the
Texas Transportation Code, Section 551.301, as amended, and/or required by the City of
New Braunfels, Texas, to operate on permitted locations:

- (1) operational headlamps;
- (2) operational tail lamps;
- (3) side reflectors;
- (4) operational parking brake;
- (5) rearview mirror(s)
- (6) turn signals;
- (7) horn;
- (8) brake lights;
- (9) seat belts;
- (10) windshield; and
(11) vehicle identification number.

(b) Equipment and its installation must meet standards provided by Texas Transportation Code, as amended.

(c) All such safety equipment shall be maintained as required by state law.

Section 126.484. Registered Operator Regulations.
All registered operators shall:

(1) be licensed to operate a motor vehicle as provided by Texas Transportation Code, Section 521.021, as amended, and carry a valid driver's license as provided by Texas Transportation Code, Section 521.025, and all state law driver's license permissions and restrictions shall apply to the operation of a golf cart or NEV;

(2) abide by all state and local traffic regulations applicable to vehicular traffic when operating a golf cart or NEV in the City;

(3) use standard hand signals for turning during daylight if the operator's golf cart is not equipped with turn signals;

(4) not operate or park on a sidewalk or hike and bike trail at any time;

(5) not pull any object or person with golf cart or NEV at any time;

(6) not exceed the seating capacity of the vehicle as designed by the manufacturer;

(7) remain seated at all times while the vehicle is in motion and ensure the same for passengers;

(8) maintain financial responsibility as required in the Texas Transportation Code, Section 601.051;

(9) not intentionally or knowingly allow an unlicensed or unregistered operator to operate the vehicle in violation of this ordinance.

Section 126.485. All-Terrain Vehicles, Recreational Off-Highway Vehicles.
It shall be unlawful for a person to operate an ATV or ROHV on a public street or location except as provided by state law and this section. A person may only drive across a public street or highway that is not an interstate or limited-access highway, if done so in accordance with state law. (See Transportation Code, Section 663.037, and as amended)
Section 126.486. **Exemptions- All-Terrain Vehicles, Recreational Off-Highway Vehicles.**

In accordance with state law, generally, a person may not operate an ATV or ROHV on a public street, road or highway, except as allowed under the Transportation Code, Section 663.037. In limited circumstances when allowed by state law, an Operator of ATVs or ROHVs may drive on streets with a speed limit of 35 miles per hour or less, (not interstate highway or limited access highway), but only if the transportation falls within the exceptions contained in Transportation Code, Section 663.037(d), including those vehicles owned by the city, county or state, and used for public safety and welfare purposes, or within the limits of Section 663.037(d). Such operator must be licensed and may also cross a public street, road or highway that is not a limited access highway or an interstate highway, with a posted speed limit of not more than 45 miles per hour.

Section 126.487. **Safety Equipment for Exempt ATVs and ROVs.**

Exempt vehicles must have the following safety equipment:

- (a) affix an 8ft. pole on back w/orange triangle flag;
- (b) headlamps illuminated while operated;
- (c) tail lamps illuminated while operated;
- (d) brake system;
- (e) muffler system maintained in good operating condition;
- (f) U.S. Forest Service spark arrester; and
- (g) off-highway vehicle decal from Texas Parks & Wildlife.

Section 126.487. **Penalties.**

Only warning citations may be issued for the first thirty (30) days following the effective date of this ordinance so that an educational effort by the City of New Braunfels may be conducted to inform the public about the importance and requirements of this ordinance. In addition to traffic violations for which the owner or driver of the golf cart or NEV may be subject to pursuant to state law, any person who violates this ordinance shall be guilty of a misdemeanor punishable by a fine as follows:

1. First offense shall have a minimum fine of $100.00 and a maximum fine of $2,000.00;
2. Second offense shall have a minimum fine of $200.00 and a maximum fine of $2,000.00; and
3. Third and subsequent offenses shall have a minimum fine of $500.00 and a maximum fine of $2,000.00.

Each day’s violations shall constitute a separate and distinct offense. Any prior conviction under this ordinance will count towards a second and third charge regardless of when it occurred.

**SECTION 3: Savings Clause.**
All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

SECTION 4: **Severability.**
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

SECTION 5: **Effective Date.**
This Ordinance shall become adopted and effective upon its final reading and must be published 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 __________, 2015.

PASSED AND APPROVED: Second reading this ___ day of __________, 2015.

CITY OF NEW BRAUNFELS, TEXAS

________________________________________
BARRON CASTEEL, Mayor

ATTEST:

__________________________
Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

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Valeria M. Acevedo, City Attorney