

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 86 OF THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS, ARTICLE 1, SECTION 86-14 BY INCREASING THE ALLOWABLE COOLER SIZE FROM 16 QUARTS TO 30 QUARTS ON THE COMAL AND GUADALUPE RIVERS INSIDE THE CITY LIMITS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels, Texas has previously determined that there is a public benefit to the restriction of cooler sizes on the Comal and Guadalupe Rivers within the City limits of New Braunfels; and

WHEREAS, the City Council of the City of New Braunfels, Texas has previously determined that restricting cooler sizes leads to fewer disposable containers being brought to and disposed of in the rivers; and

WHEREAS, the City Council of the City of New Braunfels, Texas has determined that restricting cooler sizes improves tuber safety at the Last Tuber's Exit by improving traffic flow; and

WHEREAS, the City Council of the City of New Braunfels, Texas has determined that there are now a variety of non-disposable containers available to the public; and

WHEREAS, the City Council of the City of New Braunfels, Texas has determined that a slightly larger cooler size will better accommodate non-disposable containers and still protect safety; and

WHEREAS, the River Advisory Committee has unanimously recommended to the City Council on October 18, 2018 that the cooler size in Chapter 86, Article I, Section 86-14 be increased from 16 quarts to 30 quarts.

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. AMENDMENTS.

That Chapter 86, Article I, Section 86-14 of the New Braunfels Code of Ordinances shall be amended to read as follows, with new language indicated below by use of underlined font:

Sec. 86-14. - Coolers that are allowed on rivers, lakes and streams.

- (a) (1) It shall be unlawful for anyone to use, carry, possess or dispose of a cooler that has a capacity greater than **46 30 quarts** on or in the public waters of the portions of the Guadalupe River and Comal River that lie within the city limits and are defined herein. All coolers used, carried, and possessed on the Comal River and Guadalupe River shall be secured by a zipper, Velcro snap, mechanical latch, or bungee cord to prevent the contents of the cooler from falling out of the cooler.
- (2) It shall be unlawful for anyone to use, carry or possess food or beverages in a disposable container on or in the public waters of the Guadalupe River or Comal River and each person is limited to one cooler in accordance with subsection (a)(1). Disposable container means a receptacle designed to be used once, then thrown away. For purposes of this subsection, disposable containers include, but are not limited to, metal and aluminum cans, glass containers, Styrofoam cups and containers, cardboard containers, paper sacks, boxes, paper napkins and towels, and plastic containers and utensils.
- (3) It shall be unlawful for anyone to dispose of any container into the waters or banks of the Guadalupe River or Comal River unless it is disposed into a properly authorized and placed trash receptacle;
- (4) It shall be unlawful for anyone to use, carry, possess or dispose of an open container with a volume capacity of five fluid ounces or less on or in the public waters of the portions of the Guadalupe River, Lake Dunlap and Comal River that lie within the city limits; and
- (5) For purposes of this section, "container" means a bottle, can, or other receptacle; "open container" means a container that is open, that has been opened, that has a broken seal, or the contents of which are fully or partially removed; and "cooler" means a receptacle or apparatus capable of cooling or keeping cold food and drinks and which can carry more than one container.

The phrase "on or in the public waters" does not include being on a landing, dock, wharf, deck, or other structure that is attached to and is a part of private property that is adjacent to the Guadalupe River or Comal River.

The term "Comal River" means that portion of the Comal River or the diversion of the Comal River that starts at the confluence with Dry Comal Creek and ends at the confluence with the Guadalupe River.

The term "Guadalupe River" means that portion of the Guadalupe River that starts at the Gruene Bridge and ends at the Mill Dam.

- (b) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not more than \$500.00.
- (c) It is an affirmative defense to prosecution if the individual was involved in the clean up or collection of trash and debris from the rivers.

(Ord. No. 2007-13, § I, 3-26-07; Ord. No. 2011-65, § 1, 8-22-11)

Editor's note— Subsection (a)(2) shall become effective January 1, 2012.

Ord. No. 2007-13, § I, adopted March 26, 2007, amended § 86-14 in its entirety to read as herein set out. Formerly, § 86-14 pertained to open containers of five fluid ounces or less prohibited on rivers, lakes and streams, and derived from Ord. No. 2006-78, § I, adopted August 14, 2006.

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

SECTION 4: If any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

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 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 on the _____ day of _____, 2018.

PASSED AND APPROVED: Second Reading on the _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Barron Casteel, Mayor

ATTEST:

Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney