

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS AMENDING CHAPTER 142 TO ALLOW USE OF CERTAIN LIVE BAIT IN THE CITY LIMITS AND TO MINIMIZE THE POTENTIAL FOR THE INTRODUCTION OF NON-NATIVE, INVASIVE AQUATIC SPECIES; PROVIDING FOR PENALTY AND CULPABLE MENTAL STATE; PROVIDING FOR SEVERABILITY CLAUSE, PUBLICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City is a partner on the Edwards Aquifer Habitat Conservation Plan that aims to protect habitat of federally-protected endangered species in the Comal River system; and

WHEREAS, the current Code of Ordinances, Section 142-4, entitled Methods of Fishing, should be amended since it prohibits the use of any type of live bait, which conflicts with Texas Parks and Wildlife Department fishing regulations; and

WHEREAS, the introduction of non-native, invasive aquatic organisms have the potential to negatively impact endangered aquatic species and native fish populations; and

WHEREAS, the types of live bait allowed should exclude non-native, invasive aquatic species, including aquarium species such as goldfish and *Plecostomus* sp., which is in conformance with the City's obligation under the Edwards Aquifer Habitat conservation Plan (EAHCP) program.

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

I.

THAT 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.

II.

THAT Chapter 142, of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows with strikeout font indicating deletions and underlined font indicating new language:

Chapter 142 – WATERWAYS

Sec. 142-1. - Definitions.

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

Invasive Species is a plant or animal that is typically exotic and non-native that can multiply and expand at rapid rates and compete with native plants and animals for food and habitat space.

Muffler means a device through which the escaping gases of the self-propelling mechanical device that may be attached to any boat, raft or float pass, designed to muffle or minimize the noise produced by the operation of such self-propelling mechanical device.

Native Aquatic Organism means a species of plant or animal that normally lives and thrives in a particular aquatic ecosystem.

Non-Native Aquatic Organism means an aquatic organism species that occurs outside of its native range as a result of deliberate or accidental introduction by humans. Non-native species compete with native species for food and habitat having the potential to cause adverse impacts to native populations.

Terrestrial Organisms means animal species that live predominantly or entirely on land. Terrestrial bait species include but are not limited to earthworms, crickets and grasshoppers.

Nighttime means any time from sunset until sunrise.

Sec. 142-4. - Methods of fishing.

~~It shall be unlawful for any person to take or catch any fish within the city limits by any means or device for catching fish other than ordinary pole and line, casting rod and reel, artificial bait, trotline or set line; provided, however, that a seine may be used as provided by the laws of the state or regulations by the state parks and wildlife commission.~~

Fishing within the city limits shall be conducted in accordance with the general fishing regulations set forth by the Texas Parks and Wildlife Department. Fishing within the Comal River system, including Landa Lake and the Comal River, shall be conducted only with the use of artificial lures and live bait consisting of terrestrial organisms (i.e.

earthworms, grasshoppers) and native aquatic organisms (i.e. crawfish, native minnows). The use of non-native aquatic organisms as bait for the means of fishing shall be prohibited within the Comal River system. The use of cast nets within the Comal River system, including the Comal Spring runs, Landa Lake, and the Comal River shall be prohibited. Spearfishing and bow-fishing from City-owned property shall be prohibited except as authorized by the City of New Braunfels.

Sec. 142-6. – Control of Non-Native Organism Introduction Into Waterways.

It shall be unlawful for any person to introduce and release any non-native aquatic organism, including all aquarium species, into any water body within the City of New Braunfels corporate city limits.

Sec. 142-7. – Penalties and Culpable Mental State.

The violation of any provision of this article shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than \$500.00. It is hereby declared that the culpable mental state required by V.T.C.A., Penal Code § 6.02 is specifically negated and clearly dispensed with, and such offense is declared to be a strict liability offense. Each day any violation of this ordinance continues shall constitute a separate and distinct offense.

III.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof are declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

IV.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also 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 the ____ day of _____, 2019.

PASSED AND APPROVED: Second reading this the ____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY