



ORDINANCE NO. 2018-12-04-01

AN ORDINANCE OF THE CITY OF MARTINDALE, TEXAS, PROTECTING THE SAN MARCOS RIVER BY PROHIBITING ALL DISPOSABLE CONTAINERS ON THE SAN MARCOS RIVER WITHIN THE CITY LIMITS AND PROVIDING FOR PENALTIES AND CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Martindale is a Type A Municipality given broad discretionary power under the Texas Constitution to regulate the public health, safety and general welfare of its citizens; and

WHEREAS, the City Council of the City of Martindale finds that the San Marcos River and the recreational areas and parks that border it are a vital and integral part of the municipality's health and general welfare; and

WHEREAS, the use of the San Marcos River by water recreational users and the disposing of the containers and other litter in the river directly and substantially impacts the water quality of the river endangering protected and endangered species of plants and animals and the health, safety and welfare of the citizens of Martindale,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARTINDALE THAT SECTION 94, SAN MARCOS RIVER PROTECTION IS ADDED TO THE CITY OF MARTINDALE CODE OF ORDINANCES.

I. SAN MARCOS RIVER PROTECTION

Sec. 94.01 – Definitions.

(a) “Container” – means a bottle, can, or another receptacle.

(b) “Cooler” – means an insulated container for keeping food and drinks cool.

(c) “Disposable Container” – means a receptacle designed to be used once and thrown away. For the 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.

(d) “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. Sec. 94.02 – Coolers and disposable containers.

Sec. 94.02 – Coolers and disposable containers.

(a)(1) It shall be unlawful for anyone to use, carry or possess or dispose of a cooler that has a capacity greater than 16 quarts on any portion of the San Marcos River within the city limits of the city. All coolers used, carried and possessed 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 beverages in a disposable container on or in the public waters of the San Marcos River in the city limits, and each person shall be limited to one cooler in accordance with subsection (a)(1).

(3) It shall be unlawful for anyone to dispose of any container into the waters or banks of the San Marcos River in the city limits, unless it is disposed of 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 San Marcos River in the city limits.

Sec. 94.03 – Culpable Mental State, Penalty

(a) In order to violate any portion of Sec. 94 the person must have acted “recklessly”.

(b) Any violation of Sec. 94 is punishable by fine of not less than \$1 nor more than \$500.

II.

If any word, phrase, clause, sentence or paragraph of this Ordinance is held to be unconstitutional or invalid by a Court of competent jurisdiction, the other provisions of this Ordinance will continue in full force and effect.

III.

All ordinances and resolutions or parts of ordinances or resolutions in conflict with this Ordinance are repealed.