

## ORDINANCE NO. 2021-74

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 58 PUBLIC FACILITIES, PARKS AND RECREATION OF THE SAN MARCOS CITY CODE, MAKING AMENDMENTS TO SECTION 58.042 PROHIBITED ITEMS IN A CITY PARK OR NATURAL AREA BY INSERTING POSSESSION OF A WEAPON AS DEFINED IN SECTION 58.026 DEFINITIONS; AND AMENDING SECTION 58.068 OF THE SAN MARCOS CITY CODE THAT PROHIBITS POSSESSION OR SHOOTING OF A SPEARGUN BY ANY PERSON WHILE IN OR UPON THE SAN MARCOS RIVER WITHOUT A PERMIT ISSUED BY THE PARKS AND RECREATION DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

**SECTION 1.** Chapter 58, Public Facilities, Parks and Recreation, Section 58.042, prohibited items and Section 58.068, possessing of or shooting spearguns in San Marcos River, of the San Marcos City Code are hereby amended (Inserted text is indicated by underlining and Deleted text is indicated by ~~strikethroughs~~.):

### **Sec. 58.026. Definitions.**

#### **In this article:**

*Weapon* means any device from which a shot, projectile, arrow, or bolt is fired by the force of an explosion, compressed air, gas or mechanical device. Weapons include but are not limited to the following: rifle, shotgun, handgun, air rifle, pellet gun, longbow, cross bow, sling shot, blow gun, or dart gun.

### **Sec. 58.048. Prohibited items.**

- (a) In a city park or natural area the following items are prohibited:
  - (1) Styrofoam products including but not limited to coolers, ice chests, cups, plates, toys, floats, kickboards, rings or swimgear.
  - (2) Portable tables, or any type of table unless the department authorizes an event organizer to temporarily erect or install such tables as part of an approved event permit.
  - (3) Tents, tarps, shelters, or umbrellas, other than hand-held umbrellas, except as provided in subsection (c) or when the department authorizes an event organizer to temporarily erect or install such items as part of an approved event permit.

(4) Possession of a weapon as defined in Section 58.026.

**Sec. 58.068. Possession~~ing~~ of or shooting spearguns on City Owned Property in San Marcos River; permit required.**

- (a) In this section, the term "speargun" means any type of device used for propelling a spear, ~~gig~~ or any other type ~~of hand-held spear or~~ projectile through water as a means of shooting or taking fish.
- (b) It is unlawful for any person to possess or shoot a speargun while in or upon city owned property ~~the San Marcos River~~ without a program permit issued by the department.

**SECTION 2.** 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 force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 4.** This ordinance will take effect after its passage, approval and adoption on second reading.

**PASSED AND APPROVED** on first reading on September 7, 2021

**PASSED, APPROVED AND ADOPTED** on second reading on September 21, 2021.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney