

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PFLUGERVILLE TEXAS AMENDING PROVISIONS OF CHAPTER 130 OFFENSES AGAINST CITY REGULATIONS, SECTION 130.03 DISCHARGING FIREARMS, TO DEFINE BB GUNS AND ADDING TWO EXCLUSIONS FROM THE PROHIBITION OF THE DISCHARGE OF BB GUNS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Pflugerville desires to continue to protect and ensure the public health, safety, and welfare it's residents and businesses by regulating the discharge of firearms; and,

WHEREAS, the City of Pflugerville has determined that proper training in gun safety and handling increases the safety of citizens; and

WHEREAS, the City of Pflugerville has determined proper gun safety training is important in developing safe, ethical and responsible firearm users; and

WHEREAS, amendments to the prohibition against the safe discharge of BB guns will provide additional opportunities for valuable training in the safe use of firearms; and

WHEREAS, the City Council desires to amend its regulations governing the discharge of firearms consistent with Texas law, now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

SECTION 1. Finding of Fact.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Chapter 130, Section 130.03, Discharging Firearms, is hereby amended and restated to read as follows:

§ 130.03 DISCHARGING FIREARMS.

(A) Prohibition. Except as allowed in subsection (E), it is illegal and hereby declared a public nuisance to discharge or allow the discharge of a firearm within the city limits of the City of Pflugerville or within 1,000 feet of the city limits in the extraterritorial jurisdiction of the city.

(B) Definition of Firearm. Firearm means any device, by whatever name known, designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas.

The term firearm includes but is not limited to rim fire, center fire, black powder, pellet, BB, air gun, and paintball guns regardless of the use of compressed air or CO2.

(C) Definition of BB gun. A type of firearm, properly marked with a 1/4" long orange tip, designed to shoot spherical projectiles called BBs. The maximum allowed diameter of plastic spherical BB projectile is 6 mm (such as Airsoft guns), the maximum allowed diameter of spherical non-plastic BBs is 4.3 to 4.4 mm (such as traditional BB guns).

(D) Authorization. The Police Chief or his designee is authorized to enter any premises when probable cause exists to believe the unlawful discharge of firearms is occurring and may seize any firearms and ammunition in order to abate the nuisance.

(E) Exclusions. The following actions are not prohibited by this section:

(1) Discharge of a BB gun in a manner not reasonably expected to cause a projectile to cross the boundary of the tract:

- (i) In the rear yard of private property; or
- (ii) At a practice or event sponsored by a governmental entity.

(2) Discharge of a shotgun, air rifle, air pistol, pellet or BB gun on a tract of land of 10 acres and:

- (i) More than 1,000 feet from:
 - (a) The property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and
 - (b) The property line of a school, hospital or commercial day-care facility;
- (ii) More than 600 feet from:
 - (a) The property line of a residential subdivision; and
 - (b) The property line of a multifamily residential complex; and
- (iii) More than 150 feet from a residence or occupied building located on another property and in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;

(3) Discharge of a center fire or rim fire rifle or pistol of any caliber on a tract of land of 50 acres or more and:

- (i) More than 1,000 feet from:
 - (a) The property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and
 - (b) The property line of a school, hospital or commercial day-care facility;
- (ii) More than 600 feet from:
 - (a) The property line of a residential subdivision; and
 - (b) The property line of a multifamily residential complex; and
- (iii) More than 300 feet from a residence or occupied building located on another property; and
 - (a) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or
 - (b) Discharged at a sport shooting range, as defined by Section 250.001, Texas Local Government Code, in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.
- (4) Using any device designed exclusively for the firing of stud cartridges, explosives rivets, or similar industrial ammunition for construction purposes;
- (5) Peace officers using a firearm while discharging their official duties;
- (6) Using a firearm to lawfully defend their life, the life of a third person or property;
- (7) Using a firearm within a commercial shooting range or commercial paint ball course constructed in compliance with city ordinances and Building Codes.

(F) Penalty. Any person who shall violate any of the provisions of this section or fail to comply therewith shall be deemed guilty of a Class C Misdemeanor and, upon conviction, shall be fined not less than \$1.00 nor more than \$500.00. This offense is hereby declared to be a strict liability offense and the culpable mental state required by Chapter 6.02 of the Texas Penal Code is hereby specifically negated and clearly dispensed with. Each day that the violation occurs shall constitute a distinct and separate offense.

SECTION 6. Conflicting Ordinances.

All prior ordinances of the City dealing with or applicable to this Ordinance are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other ordinance of the City, the terms and provisions of this Ordinance shall govern.

SECTION 7. Severability.

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable. In the event that changes are made to Texas Health & Safety Code §§ 342 or 343, the provisions of state law will govern in the event of a conflict.

SECTION 8. Effective Date.

This Ordinance will take effect upon its passage and adoption by the City Council in accordance with the provisions of Section 3.15(d) of the City Charter.

PASSED, APPROVED, AND ADOPTED on the _____ day of _____, 2015.

Jeff Coleman, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

George Hyde, City Attorney
DENTON, NAVARRO, ROCHA, BERNAL, HYDE & ZECH, P.C.