

ORDINANCE NO. 2017-10-19B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, AMENDING TITLE VII GENERAL REGULATIONS BY THE ADDITION OF CHAPTER 79 ENTITLED “DISCHARGE OF FIREARMS” TO THE CITY OF OVERTON CODE OF ORDINANCES, DEFINING TERMS, PROHIBITING THE DISCHARGE OF FIREARMS AND AIR-GUNS WITHIN THE CITY, PROVIDING FOR EXCEPTIONS, AND PROVIDING A PENALTY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; DECLARING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT.

WHEREAS, the City Council of the City of Overton had previously adopted the Ordinance No. 12-01-46, which was amended by Ordinance No 04-01-56; and which was then amended by Ordinance No. 11-01-64, which had prohibited the discharging of firearms or air-guns within the City of Overton; and

WHEREAS, the City of Overton’s “Discharge of a Firearm” Ordinance was inadvertently repealed when the current Code of Ordinances for the City of Overton was adopted and then ratified by Ordinance No. 2014-07-29A; and

WHEREAS, the City Council desires to adopt an Ordinance that would prohibit the discharge of firearms and air-guns within the City limits of Overton;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, THAT:

SECTION 1. That Title VII “General Regulations” of the Code of Ordinances of the City of Overton Texas is amended by the addition of Chapter 79 “Discharge of Firearms”, which shall read as follows:

Chapter 79 Discharge of Fire Arms

- 79.01 Purpose.
- 79.02 Definitions.
- 79.03 Intentional discharge prohibited.
- 79.04 Hunting prohibited.
- 79.05 Use of firearms, air-guns or tasers.
- 79.06 Discharge of firearms and air-guns prohibited; exceptions.
- 79.07 Discharge of firearms authorized on certain property.
- 79.08 Penalty.

§79.01. Purpose.

This chapter is adopted so that the City may promote the public health, safety, morals and general welfare within the City through the regulation of the discharge of firearms and air-guns. The City seeks to prevent bodily injury, death, and property damage within the City limits by restricting the discharge of such devices as provided herein,

§79.02. Definitions.

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

- (a) ***Air-Gun*** means a device designed, made, or adapted to expel a projectile through a barrel by using the energy or force generated by the release of air or compressed gases. The term “air-gun” includes but is not limited to BB guns, pellet guns, air pistols, paintball guns and air-rifles.
- (b) ***Firearm*** means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. The term “firearm” includes but is not limited to revolvers, pistols, handguns, rifles, shotguns and tasers.
- (c) ***Hunt*** means to seek or pursue with intent to take or kill and includes take, kill and any attempt to take or kill.

§79.03. Intentional discharge prohibited.

It shall be unlawful to intentionally discharge a firearm within the corporate city limits unless allowed under Sections §79.06.

§79.04. Hunting prohibited.

It shall be unlawful and a crime to intentionally injure, kill or hunt any wild game within the City.

§79.05. Use of firearms, air-guns or tasers.

- (a) It shall be unlawful for any person to fire, shoot, explode, or cause to be fired, shot, or exploded any firearm, rifle, shotgun, pistol, revolver, air-rifle, air-pistol or other device or instrumentality ordinarily known as firearms and capable of propelling bullets, shot or other solid or compact substances, whether propelled by powder, fire, compressed air or other force or by combination of such forces, within the corporate limits of the city.
- (b) For purposes of this section, a “taser” type of weapon is considered a firearm.

§79.06. Discharge of firearms and air-guns prohibited; exceptions.

- (a) This section shall not apply to:
 - (1) The person discharged a firearm or air-gun in the lawful defense or protection of a person or property in accordance with state law;
 - (2) Acts of defense of persons and property on premises under one’s control as are lawful under the Penal Code of the state;
 - (3) Certified state peace officers in the performance of their official duties;
 - (4) Pistol matches in a fully enclosed pistol range which received advanced specific approval from City Council;
 - (5) Any sporting event where starter guns are used;
 - (6) The person was a duly appointed animal control officer in the course and scope of his or her official duties and was euthanizing a sick or injured animal or eradicating a predatory animal;
 - (7) The person eradicated a predatory animal on his or her own property or with the written permission of the owner of the property;

- (8) The person used blank cartridges for a theatrical production, and event sponsored by a military organization, a funeral with military honors, an athletic event, or other ceremonial or commemorative events, provided that the discharge is performed safely and directed away from persons, animals, or structures so as to prevent bodily injury and property damage;
- (9) The person discharged an air-gun on his or her own property, provided such device is not fired into or onto another person's property without the other owners' written consent;
- (10) The person was at a shooting range operated by the United States Government, State of Texas, or political subdivision of the state, or which is privately operated as authorized or permitted by the City;
- (11) The person was a gunsmith and discharged the firearm at his or her place of business which was authorized or permitted by the City and the discharge was for test purposes;
- (12) The person was participating in an amusement arcade or paintball amusement facility authorized or permitted by the City; or
- (13) The person was using any mechanism designed to propel nails, bolts, screws, rivets, or other fasteners, so long as such mechanism was being used for its intended purpose.

§79.07. Penalty.

A person violating any provision of this chapter, shall, upon conviction, be fined an amount not to exceed \$500.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a misdemeanor.

SECTION 2. The City Secretary is authorized and directed to update and amend the City's Code of Ordinances to reflect the adopted amendments and to correct typographical errors and to index, format, number and letter paragraphs to the existing Code as appropriate.

SECTION 3. The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty clauses of this Ordinance as an alternative method of publication provided by law.

SECTION 4. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance, are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION 5. If any section, provision, subsection, paragraph, sentence, clause, phrase, or word in this ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Overton, Texas, hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 6. That the meeting at which this Ordinance was enacted was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

SECTION 7. This Ordinance shall be in full force and effect from and after October 19, 2017.

DULY PASSED AND APPROVED FOR ADOPTION AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS ON THIS THE 19th DAY OF OCTOBER, 2017 BY A VOTE OF 4 AYES 0 NAYS AND 0 ABSTENSIONS.

CITY OF OVERTON, TEXAS



C. R. Evans Jr.
C. R. Evans Jr., MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Rachél Gafford
Rachél Gafford, CITY SECRETARY

Blake Thompson
Blake Thompson, CITY ATTORNEY