

**CITY OF HORSESHOE BAY**

**ORDINANCE NO. ORD 07-02-20E**

**FIREARMS ORDINANCE**

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS REGULATING THE DISCHARGE AND CARRYING OF FIREARMS AND OTHER TYPES OF WEAPONS WITHIN THE CITY OF HORSESHOE BAY, BANNING THE DISCHARGE OF FIREARMS THEREIN; REQUIRING A PERMIT FROM THE CITY FOR SHOOTING GALLERIES; PROVIDING A PENALTY OF \$2000.00 FOR VIOLATION; PROVIDING FOR SEVERANCE, REPEAL OF CONFLICTS, AND AN EFFECTIVE DATE**

**WHEREAS**, the discharge of firearms and other types of weapons within the City of Horseshoe Bay poses a risk to the health, safety and welfare of the residents of the City of Horseshoe Bay; and

**WHEREAS**, under the laws of the State of Texas the City may regulate the carrying of and/or discharge of firearms within the corporate limits of the City; and

**WHEREAS**, the City Council of the City of Horseshoe Bay is of the opinion that it is in the best interest of the citizens of the City to establish reasonable regulations regarding the discharge and use of firearms and other types of weapons within the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF HORSESHOE BAY** that:

The foregoing recitals are adopted and incorporated herein for all purposes.

**Sec. 1 Definitions**

*Arrow.* A slender shaft usually pointed at one end and feathered at the other for shooting from a bow.

*Blow gun.* A long, tube-like weapon through which darts or pellets are blown.

*Bow.* A device for shooting arrows, a flexible, curved strip of wood or other material, with a taut cord connecting the two ends.

*Chief of Police.* Chief of Police means the Chief of Police of the City of Horseshoe Bay, Texas, or his/her designee.

*City.* City means the City of Horseshoe Bay, Texas.

*City Council.* City Council means the City Council of the City of Horseshoe Bay, Texas.

*Commercial shooting gallery.* A commercial shooting gallery that possesses a permit from the city allowing the discharge of a firearm, bow and arrow, crossbow or blow gun on the premises.

*Crossbow.* A medieval weapon consisting of a bow set transversely on a stock.

*Explosive weapon.* Any type of incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon

*Firearm.* 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, including but not limited to a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, starter pistol, bb gun, air gun, inoperative firearm, or other firearm. For the purpose of this Ordinance the term shall include an explosive weapon.

*Private shooting gallery.* A shooting gallery maintained for personal, noncommercial use that possesses a permit from the city allowing the discharge of a firearm, bow and arrow, crossbow or blow gun on the premises.

*Replica or facsimile of a firearm* means any device or object made of plastic, wood, metal or any other material, which is a replica, facsimile or toy version or is otherwise recognizable as a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, starter pistol, air gun, inoperative firearm, or other firearm. As used in this article, "replica or facsimile of a firearm" shall include, but is not limited to, toy guns, theatrical production props, hobby models (either in kit form or fully assembled), or any other device which might reasonably be perceived to be a real firearm.

*Urgent necessity.* The exercise of a right conferred by the laws of the State of Texas, including but not limited to, lawful arrest, lawful prevention of crime, and lawful exercise of the right to self defense.

## **Sec. 2 Brandishing of firearm or replica or facsimile.**

(a) It shall be unlawful to draw, exhibit or brandish a firearm or a replica or facsimile firearm in a rude, threatening or angry manner with intent to frighten, vex, harass or annoy any other person.

(b) It shall be unlawful for a person having knowledge that a peace officer, firefighter, emergency medical technician or paramedic is engaged in the performance of duties to draw, exhibit or brandish a firearm or replica or facsimile firearm in their presence.

### **Sec. 3 Discharge Prohibited**

It shall be unlawful for any person to discharge a firearm, bow and arrow, crossbow or blow gun within the corporate limits of the city.

### **Sec. 4 Defenses; Exceptions**

(a) It shall be a defense to being charged with an offense as outlined in Section 3 as follows:

- (1) In the event of urgent necessity.
- (2) When a person discharging a firearm, bow and arrow, crossbow, or blow gun in a commercial or private shooting gallery.
- (3) When a person who discharges a shotgun, air rifle or pistol, bb gun, or bow and arrow, crossbow, or blow gun within the limits of a rural/agricultural district established under the zoning classifications of the City.
- (4) When a person who discharges a shotgun, air rifle or pistol, bb gun, or bow and arrow, crossbow or blow gun within the limits of an area authorized by the City Council for hunting or fishing and consisting of a tract of land of 10 acres or more and more than 150 feet from any residence or building whether located on such tract or another tract of land.
- (5) If the firearm or other weapon is a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:
  - (a) on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and
  - (b) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;
- (6) If the firearm or other weapon is a center fire or rim fire rifle or pistol of any caliber discharged:
  - (a) on a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and
  - (b) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.
- (7) If the firearm is a BB gun, pellet gun or .22 rifle or pistol loaded with rat shot only and is used solely on a resident's own property for protection against snakes, rodents, raccoons, possums, varmints or predatory animals, the person using such firearm is over 18 years of age, and only when the discharge of such weapon can be done safely, without endangering persons or property.

(b) Section 3 does not apply to:

- (1) peace officers discharging their weapons in the normal and lawful course of duty; or
- (2) the use blank cartridges for a theatrical production, military ceremony, or sporting event that is either sponsored by an educational institution or issued a permit by the City.

#### **Sec. 5 Application for shooting gallery permit**

(a) It shall be unlawful for any person to operate a commercial or private shooting gallery within the city without first obtaining a permit from the City Council or its designee.

(b) An application for a shooting gallery permit must be accompanied by the permit fee and shall include such information as is necessary to assure the safe operation of the gallery and compliance with all appropriate laws and regulations of the city, including:

(1) The name, address, social security number and Texas driver's license number of the owner of the property upon which the shooting gallery will be located.

(2) The name, address, social security number and Texas driver's license number of the owner or the person in possession of the premises where the shooting gallery is to be located.

(3) Clear and legible drawings with description definitely showing location, construction and layout of the shooting gallery.

(4) Proof of liability insurance coverage in a minimum amount of \$1,000,000.00 per person, and \$1,000,000.00 per occurrence with such insurance showing the city as an additionally insured party.

#### **Sec. 6 Permits for shooting galleries**

(a) The construction design, building materials and location of any shooting gallery shall conform to the guidelines of the National Rifle Association's Range Manual.

(b) Before a commercial or private shooting gallery permit is issued by the City to any person, the Chief of Police shall determine that the applicant is of good moral character and that the applicant will comply with the National Rifle Association Range Manual Guidelines for the operation of commercial or private shooting galleries to maintain safe and non-hazardous conditions in and about the shooting gallery. The Chief of Police shall prescribe such additional requirements in the permit as are necessary to insure the safe operation of such shooting gallery.

(c) Such permit shall provide that the shooting gallery shall not be conducted in a manner which would constitute a nuisance or annoyance to persons in the vicinity, and such permit shall not be assignable or transferable.

(d) A permit issued under this section shall be displayed in such a fashion that the public may observe it.

(e) Any such permit must be renewed annually.

(f) No commercial shooting gallery shall operate in any residentially zoned area.

(g) An applicant for a private shooting gallery permit shall agree by the acceptance of such permit that no charge of any character will be made for the use of such private shooting gallery, and the issuance of a permit for a private shooting gallery shall not authorize the operation of a commercial shooting gallery.

#### **Sec. 7 Permit fee**

A non-refundable fee of two hundred fifty dollars (\$250.00) shall be paid to the City with each application for issuance or renewal of a commercial or private shooting gallery permit.

#### **Sec. 8 Authorization for Hunting Areas.**

A person who currently allows hunting on his property may be allowed to continue with such activity under the following conditions:

(a) The person must contact the City not later than March 15, 2007 and provide the details of the property and the current hunting lease(s), number of hunters allowed on such lease(s), the animal the current lease is for, the seasons such lease allows hunters to hunt and the term of such lease(s).

(b) The City Council shall consider the lease(s) and the term of such lease(s) and provide a reasonable period for ending such lease(s). Any review and approval of a lease by the City Council shall apply only to the lessor(s) and lessee(s) named in the lease and shall not transfer to the heirs, assigns, or successors of the lessor(s) or lessee(s).

(c) It is the intent of the City Council to not allow hunting on private property after December 31, 2008.

#### **Sec. 8 Carrying of Firearms**

(a) It shall be unlawful for a person to carry a firearm at a:

(1) public park;

- (2) public meeting of the City or any other governmental body;
- (3) political rally, parade, or official political meeting; or
- (4) non-firearms-related school or athletic event.

(b) It shall be an exception to subsection (a) above if the person is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

(c) It shall be an exception if the firearm is in or is carried to or from an area designated for use in a lawful hunting, fishing or other sporting event and the firearm is of the type commonly used in the activity.

#### Sec. 9. Violations and Enforcement

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance. There shall be no requirement of a culpable mental state for a violation of this Ordinance. Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2000.00), except as may be otherwise expressly provided by state law. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C misdemeanor.

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law.

#### **REPEALER**

Any ordinances or parts of ordinances in conflict herewith repealed to the extent that they are in conflict.

#### **SEVERABILITY**

If any of the provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other part of the same which are not held void or unconstitutional shall remain in full force and effect.

#### **EFFECTIVE DATE**

This ordinance shall take effect upon its passage and publication in accordance with the law.

