

ORDINANCE 5006-C
WEAPONS ORDINANCE

**AN ORDINANCE OF THE CITY OF NOLANVILLE,
TEXAS REPEALING ORDINANCE 5006-B IN ITS
ENTIRETY, UP-DATING ALL ARTICLES THEREIN,
REGULATING THE USE OF FIREARMS WITHIN THE
CITY LIMITS; REPEALING ALL ORDINANCES OR
SECTIONS IN CONFLICT THEREWITH; PROVIDING
FOR THE FOLLOWING; FINDINGS OF FACT; A
PURPOSE; DEFINITIONS; EXCEPTIONS; RESTRICTING
THE DISCHARGE OF AIR GUNS; AN EFFECTIVE DATE;
ENFORCEMENT CLAUSE INCLUDING INJUNCTIVE
RELIEF; A SEVERABILITY CLAUSE; PROVIDING FOR A
PENALTY NOT TO EXCEED \$1,500.00 AND CIVIL
PENALTIES NOT TO EXCEED \$100.00 PER VIOLATION;
SEVERABILITY; AND PROPER NOTICE**

WHEREAS, the City Council seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage within the City limits; and

WHEREAS, the City Council finds that the discharge of air guns, guns, firearms, explosive weapons, zip guns, and similar devices within the City can result in bodily injury, death, and property damage; and

WHEREAS, the City Council finds that the discharge of air guns, guns, firearms, explosive weapons, zip guns, and similar devices constitutes a public nuisance that poses a significant and immediate threat to the health, safety, and welfare of City citizens and their property; and

WHEREAS, the City Council finds that the noise generated by the discharge of air guns, guns, firearms, explosive weapons, zip guns, bow and arrow, cross bow, and similar devices constitutes a public nuisance; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51 the City Council has the general authority to adopt and publish an Ordinance or police regulation that is for the good of the government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS, pursuant to Texas Local Government Chapter 217 the City Council has the express authority to regulate the discharge of guns and similar devices; and

WHEREAS, the City Council's authority to regulate the discharge of firearms, explosive weapons, and similar devices is expressly recognized by Texas Penal Code section 42.12; and

WHEREAS, the City Council's authority to restrict the possession of weapons in municipal buildings housing municipal court is expressly recognized by Texas Penal Code section 46.03

NOW THEREFORE, be it ordained by the City Council of the City of Nolanville, County of Bell, State of Texas;

1. FINDINGS OF FACT

All the above premises are hereby found to be true and correct legislative and factual findings of the City of Nolanville and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. PURPOSE

This Ordinance is adopted so that the City Council may promote the public health, safety, morals and general welfare within the City through the regulation of the discharge of air guns, guns, firearms, explosive weapons, and similar devices. By prohibiting the discharge of guns, firearms, explosive weapons, zip guns, and by restricting the discharge of air guns, the City Council seeks to prevent bodily injury, death, and property damage within the City limits.

3. DEFINITIONS

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases, which are not defined in this Ordinance but are defined in other Ordinances of the City of Nolanville, shall be given the meanings set forth in those Ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

B. Specific

(1) Air Gun: means any device designed, made, or adapted to expel a projectile through a barrel by using the energy or force generated by the release of compressed gases. The term “air gun” includes but is not limited to BB guns, pellet guns, air pistols and air rifles.

(2) Explosive Weapon: means any explosive or 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.

(3) Firearm: means any device designed, made, or adapted to expel a projectile through a barrel by using the energy or force generated by an explosion or burning substance or any device readily convertible to that use. The term “firearm” includes but is not limited to guns, handguns, rifles, shotguns, automatic rifles, revolvers, and pistols.

(4) Laser Device: Light amplification by stimulated emission of radiation. A device producing an intense, highly directional beam of light.

(5) Cross Bow and Bow and Arrow: Any device that propels an arrow or dart by use of a spring action device and string or wire.

(6) Zip Gun: means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

(7) Person: means any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(8) Public Place: means any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, streets, highways, and the common areas of schools, hospitals, apartments, office buildings, transport facilities, and shops.

(9) Public Right-of-way: means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest.

(10) City: means the incorporated municipality of the City of Nolanville, located in Bell County, Texas, its agents and assigns.

(11) City Limits: means the incorporated municipal boundaries of the City of Nolanville.

4. DISCHARGE OF CERTAIN WEAPONS

A. It shall be unlawful for any person to discharge, fire, or shoot any firearm, explosive weapon, air gun, bow and arrow/cross bow, or zip gun of any description in any public place, on or across any public right-of-way, or across any property line within the City limits annexed prior to September 1, 1981.

B. It shall be unlawful to activate any laser device in the direction of any person, vehicle, boat or aircraft.

C. It shall be unlawful for any person to discharge a firearm within the extraterritorial jurisdiction or in an area annexed after September 1, 1981; provided that this section shall not be so construed as to prohibit the discharge of firearms as follows:

- (1)** The firearm is a shotgun, air rifle or pistol, BB gun, or bow and arrow; and
 - a.** Discharged on a tract of land of ten acres or more;
 - b.** Discharged more than 150 feet from a residence or occupied building located on another property; and
 - c.** In a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or
- (2)** The firearm is a center fire or rim fire rifle or pistol of any caliber:
 - a.** Discharged on a tract of land of 50 acres or more;
 - b.** More than 300 feet from a residence or occupied building located on another property; and

c. In a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

(3) In any activity or by any person considered within the class of exemptions applicable under state statutes;

(4) By any Public Safety Officer in the performance of the official duties of their office; or

(5) For the protection of a person or property in or about his home in accordance with the laws of the state.

5. EXCEPTIONS

Section 4 of this Ordinance shall not apply to:

A. Licensed peace officers, as that term is defined by Texas Code of Criminal Procedure, article 2.12(3), provided that such discharges are made in the course and scope of the peace officers' official duties;

B. The use of 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;

C. Self defense or the defense of a third person, as provided by Texas Penal Code sections 9.31, 9.32, and 9.33;

D. Duly designated animal control officers destroying sick, injured, or predatory animals on public or private property when the injuries are deemed by the officer to be fatal or near fatal.

E. Construction Tools used in the manner for which they were designed.

F. A indoor gun range with a Special Use permit issued by the Nolanville City Council.

6. FIREARMS PROHIBITED ON COURT PREMISES

A. It shall be unlawful for any person to intentionally, knowingly, or recklessly possess or go with a firearm, illegal knife, or club, as defined and prohibited by the Texas Penal

Code, air gun, explosive weapon, or zip gun on the premises of any City Court offices utilized by the Municipal Court.

B. This section does not apply to licensed peace officers or those persons possessing written authorization of the City Court.

7. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

8. ENFORCEMENT

A. Civil and Criminal Penalties

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.

B. Criminal Prosecution:

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies:

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, including, but not limited to the following:

(1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

(2) a civil penalty up to \$150.00 a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice

committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

(3) other available relief.

9. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

10. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 21ST day of June, 2012 by vote of 2 (ayes) 1 (nays) to 0 (abstentions) of the City Council of Nolanville, Texas.

CITY OF NOLANVILLE:



Charlie Stewart Sr., Mayor

ATTEST:



Ginger Metcalf, City Secretary