

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, PROVIDING FOR THE RESTRICTION ON THE DISCHARGE OF FIREARMS WITHIN THE CORPORATE LIMITS OF THE CITY; CREATING EXCEPTIONS, AND PROVIDING SEVERABILITY, OPEN MEETINGS, PENALTY AND EFFECTIVE DATE CLAUSES.

Whereas, numerous citizens have made complaints of people discharging firearms in a manner the complainant has described as unsafe or otherwise unreasonable; and

Whereas, the Texas Legislature has enacted numerous provisions in various state statutes which limit the authority of local governments to restrict the discharge of firearms in a municipality with a small population such as the City of Kempner: and

Whereas, the City of Kempner (the “City”), Texas recognizes the need to institute rules and regulations to ensure the safety of its citizens while also protecting the Constitutional Rights of the individual.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS THAT THE DISCHARGE OF FIREARMS WITHIN THE CITY LIMITS IS UNLAWFUL IF SUCH DISCHARGE IS IN VIOLATION OF THIS ORDINANCE.

SECTION 1. DEFINITIONS

- 1.1. “Firearm” means any devise 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.
- 1.2. “Nighttime hours” means the period of time occurring 30 minutes after sunset and 30 minutes before sunrise.
- 1.3. “Sport Shooting Range” means a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.
- 1.4. “Association” or “private club” means an association or private club that operates a sport shooting range at which is not fewer than 20 different individuals discharge firearms each calendar year.

SECTION 2. PROHIBITED ACTS INVOLVING THE DISCHARGE OF A FIREARM.

2.1. It shall be unlawful for any person to discharge a firearm within the corporate limits of the City of Kempner and its extraterritorial territorial jurisdictional limits unless such discharge of the firearm is:

- a. A shotgun discharged:
 - 1. on a tract of land 10 acres or more and more than 150 feet from a residence or occupied building located on another property, and
 - 2. in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or
- b. a center fire or rimfire rifle or pistol of any caliber discharged;
 - 1. on a tract of land of 50 or more acres and more than 300 feet from a residence or occupied building located on another property; and
 - 2. in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

SECTION 3 NON-APPLICABILITY

- 3.1 This ordinance does not apply to:
- a. Any person discharging a firearm in defense of life or property in accordance with the laws of this State and the Constitution of this State and the United States.
 - b. Any person who discharges a firearm:
 - 1. On a property that has been issued a permit from the City, and
 - 2. The discharge of a firearm is not during nighttime hours, unless the firearm has been equipped with a suppressor, which substantially reduces the sound of the firearm when discharged and not fired in a manner reasonably likely to cause a projectile to cross the boundary of the tract.

Section 4. Permits

- 4.1 A person who does not have a sport shooting range may obtain a permit for the discharge of a firearm on property they own, or have lawful access to, that is located within the city limits, provided the person;
- a. completes an application,
 - b. has a sufficient back-stop meeting the requirements found on addendum "A", which is made a part of this ordinance,
 - c. does not discharge a shotgun on a tract of land that is less than 10 acres and the location of the discharge of a shotgun is not within 150 feet of a residence or occupied building located on another property,
 - d. does not discharge a center fire or rim fire rifle or pistol of any caliber on a tract of land that is less than 50 acres and the location of the discharge of a center fire or rim fire rifle or pistol of any caliber is less than 300 feet of a residence or occupied building located on another property,
 - e. permits an authorized representative of the city to conduct an in person inspection of the location in which the discharge of a firearm will occur to ensure compliance with this ordinance, and
 - f. pays a fee established by the City.

4.2 A permit issued is non-transferable and expires on December 31 of each year.

SECTION 5 FINES AND PENALTIES

Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be guilty of a misdemeanor and upon conviction shall be subjected to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, except where a different penalty has been established by state law for such offense. For any violation of any provision which governs fire safety, public health or sanitation, it shall be punished by a penalty or fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day such violation is continued shall be deemed to constitute a separate offense.

SECTION 5. 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.

SECTION 6. EFFECTIVE DATE.

This ordinance shall take effect immediately from and after its passage and publication as required by the Local Government Code.

SECTION 7. OPEN MEETINGS.

That it is hereby officially found and determined that the meeting at which this ordinance is 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, Chapt, Tex. Gov't Code*.

PASSED AND APPROVED on this the ___ day of ___.

Attest:

City of Kempner, Texas