

ORDINANCE 18-048

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 11, DIVISION 2 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS BY AMENDING SECTION 16-44 PROVIDING FOR AIR POWERED WEAPON BUSINESS AND SECTION 16-46 PROVIDING A DEFENSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Killeen has previously adopted ordinances relating to the discharge of firearms and other weapons; and

WHEREAS, the discharge of weapons in the city limits is a public safety issue; and

WHEREAS, Texas Legislatures made an exception for certain annexed areas for weapons ordinances; and

WHEREAS, the City of Killeen seeks to allow certain air powered weapon businesses to operate, **NOW THEREFORE**

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

SECTION I. That Chapter 16, Article II, Division 2 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

**Chapter 16 – MISCELLANEOUS PROVISIONS AND OFFENSES
ARTICLE II – OFFENSES AGAINST PUBLIC SAFETY**

DIVISION 2. WEAPONS

Sec. 16-41. Definition.

For the purposes of this division the following words and phrases shall have the meanings respectively ascribed to them by this section:

Air Powered Weapon shall mean any paintball gun, BB gun, pellet gun, air rifle or air pistol.

Archery Device shall mean any bow, compound bow, crossbow, crossbow pistol or any other device capable of firing an arrow or bolt.

Firearm shall mean any pistol, handgun, rifle or shotgun that fires a projectile through the combustion of gunpowder or propellant.

Indoor archery range shall mean a room, place or enclosure equipped with targets for practice with a bow, compound bow, crossbow, crossbow pistol or any other device capable of firing an arrow or bolt.

Indoor firing range shall mean a room, place or enclosure equipped with targets for practice with any BB gun, pellet gun, air rifle or pistol, gun, pistol or firearm of any description.

Shooting gallery shall be as defined in section 5-51.

Permit Holder shall mean the person to which a permit was issued or his guest(s). A person shall be assumed to be a guest if the Permit Holder is present at the permitted activity and consents to the person's presence or the person has written permission to participate in the permitted activity from the person to which the permit was issued. Written permission must include the name, date of birth and home address of the person being given permission.

Sec. 16-42. Penalty.

Unless stated otherwise, violations of this division shall be punished as provided in section 1-8.

Sec. 16-43. Discharge of Firearms.

Except as otherwise regulated by state law and this division, it shall be unlawful to discharge, other than within an indoor firing range or shooting gallery, within the city limits a firearm of any description without first obtaining a permit from the city manager.

Sec. 16-44. Discharge of Air Powered Weapons or Archery Device.

1. It shall be unlawful to discharge any air powered weapon or archery device on locations zoned other than A Agricultural, ~~or~~ A-R1 Agricultural Single Family Residential, or District B-5 Business District as part of a business establishment.
2. It shall be unlawful to discharge any air powered weapon or archery device on locations of less than 5 acres in size.
3. It shall be unlawful to discharge an air-powered weapon or archery device in a manner not reasonably likely to contain the fired projectile to the property controlled by the property owner or agent.

Sec. 16-45. Discharge of firearm near structures, buildings, roadways.

1. It shall be unlawful for any holder of a permit issued under this division to discharge any firearm within one hundred (100) yards of any occupied residence not owned or controlled by the property owner or his agent.

2. It shall be unlawful for any holder of a permit issued under this division to discharge a firearm on any property less than twenty-five (25) acres in size. It is permissible for more than one property owner to join with another property owner in permitting contiguous properties to meet the minimum acreage requirements of this section.
3. It shall be unlawful for any holder of a permit issued under this division to discharge a firearm in a manner not reasonably likely to contain the fired projectile to the permitted property.

Sec. 16-46. Exceptions.

Sections 16-43, 16-44 and 16-45 do not apply to:

- a. a peace officer lawfully acting within in the scope of the peace officer's duties;
- b. an authorized agent, officer, employee or representative of a state or federal agency lawfully acting within the scope of that person's duties;
- c. a person acting in self defense;
- d. the discharge of any firearm that does not release a projectile as part of a demonstration at a special event, function or activity, or for signal or ceremonial purposes in athletic events, or by a military organization;
- e. the use of toy bows and soft rubber tipped arrows;
- f. a person acting in defense of livestock or crops;
- g. a discharge in the city's extraterritorial jurisdiction or in an area annexed by the city after September 1, 1981, if the weapon discharged is:
 - (1) 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) discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or
 - (2) 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.

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SECTION II: That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION III: That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

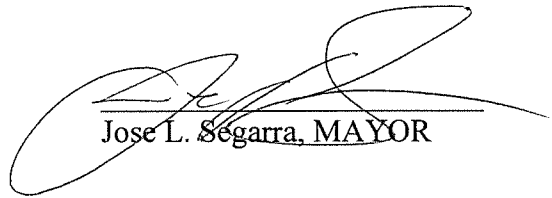
SECTION IV: That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION V: That this ordinance shall be effective upon publication according to law.

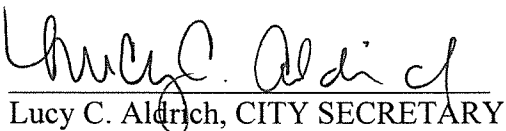
PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 18th day of December, 2018, at which meeting a quorum was present, held in accordance with the provision of V.T.C.A., Government Code, §551.001 *et seq.*



APPROVED


Jose L. Segarra, MAYOR

ATTEST:


Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM:


Kathryn H. Davis, CITY ATTORNEY

CITY COUNCIL MEMORANDUM FOR ORDINANCE

DATE: December 11, 2018
TO: Ronald L. Olson, City Manager
FROM: Kathryn H. Davis, City Attorney
SUBJECT: Amendment of Chapter 16

BACKGROUND AND FINDINGS:

Current state law restricts cities from regulating the discharge of firearms or other weapons in the extraterritorial jurisdiction or in an area annexed by the city after September 1, 1981, except under certain circumstances.

In addition, our current ordinances restrict the use of air-powered weapons to such an extent as to prevent certain entertainment businesses from offering these services to patrons.

THE ALTERNATIVES CONSIDERED:

1. Maintain current ordinance which will leave us in conflict with current state law and prevent the operation of certain types of entertainment businesses that use air-powered weapons.
2. Approve the recommended amendments as presented.

Which alternative is recommended, and Why?

Staff recommends alternative 2, approve amendments as presented. This will allow the city's ordinances to be in compliance with state law and also allow air-powered type weapon businesses to open in the city.

CONFORMITY TO CITY POLICY:

These ordinance amendments are in compliance with city policies.

FINANCIAL IMPACT:

N/A

What is the amount of the expenditure in the current fiscal year? For future years?

N/A

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

N/A

RECOMMENDATION:

City staff recommends adopting the amendments to Chapter 16 as provided.

DEPARTMENTAL CLEARANCES:

Legal