

**CITY OF SEABROOK
ORDINANCE NO. 2016 -05**

AMENDMENT TO THE FIREARMS ORDINANCE

AN ORDINANCE AMENDING THE CODE OF THE CITY OF SEABROOK, CHAPTER 44, "LAW ENFORCEMENT AND OFFENSES", ARTICLE III, "OFFENSES", DIVISION 1, "GENERALLY" BY AMENDING SECTION 48-78, "DISCHARGE OF WEAPONS AND EXCEPTIONS", ADDING A NEW SECTION 48-79, "REGULATION OF FIREARMS AND AIRGUNS"; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$500, OR THE MAXIMUM AMOUNT PERMITTED BY LAW FOR VIOLATION OF ANY PROVISIONS HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Seabrook is continually reviewing the provisions of the Code of Ordinances (Code) relating to the elimination of hazards, nuisances and other circumstances which negatively impact the health, safety and well-being of residents, citizens and inhabitants; and

WHEREAS, Section 229.001, Texas Local Government Code, provides a municipality may regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a handgun under Subchapter H, Chapter 411, Texas Government Code, under specific provisions; and

WHEREAS, the City Council of the City of Seabrook has investigated, reviewed and considered the use of firearms and airguns within the city limits, as defined in Section 229.001 of the Texas Local Government Code, that pose the potential risk of serious personal injury, death or damage to property of its residents; and

WHEREAS, a city may prohibit the carrying of firearms by non-license holders, including long guns such as rifles and shotguns, in city buildings and related areas pursuant to Texas Penal Code Section 30.05; and

WHEREAS, the City Council has determined that firearms and airguns should be regulated, as provided by law, for the protection of the health, peace and safety of its residents and others; and

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

SECTION 1. FINDINGS OF FACT.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and incorporated herein.

SECTION 2. AMENDMENT TO THE CODE.

Chapter 44 "Law Enforcement and Offenses", Article III., "Offenses," Division 1, "Generally" of the Seabrook Code of Ordinances is amended as follows:

"Sec. 44-76. - Enforcement.

Enforcement of this article is the responsibility of the police.

(Code 1976, § 18-6; Code 1996, § 42-2)

Sec. 44-77. - Penalties.

Any person convicted of any provisions of this chapter, except as otherwise provided for in this chapter, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed the maximum amount allowed by law.

(Code 1976, § 18-7; Code 1996, § 42-1)

Sec. 44-78. - Discharge of weapons and exceptions.

(a) Definition. For the purposes of this section, the term "weapon" means any firearm, (including revolver, pistol, rifle, shotgun, pellet gun, BB gun, airgun), bow and arrow (including cross bow, long bow, compound bow, or similar device composed of a curved piece of resilient wood or other material with a taut cord to propel an arrow or bolt), or any other weapon that is spring loaded, discharged by explosive action of any kind or nature, or of pneumatic design and operation.

(b) Discharge prohibited. It shall be unlawful for any person within the city to cast, throw, shoot, fire or discharge any weapon, as defined in subsection (a) above in the city, other than law enforcement officers or authorized persons engaged in the performance of their duty or otherwise permitted by law.

(c) Exceptions; defenses.

(1) Nothing in this section shall be construed to apply to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies, or the discharge of a firearm at a sport shooting range as provided for pursuant to V.T.C.A., Local

Government Code § 229.001; nor shall this section be construed to prevent any public or private demonstration or display of firearms of any kind, if conducted under proper supervision, after an application is made and a permit issued by the city council for such demonstration.

(2) It is a defense to prosecution under paragraph (b) that:

- a. The weapon was discharged upon an authorized sport shooting range;
- b. The weapon was discharged by a law enforcement officer acting within the scope of his duties;
- c. The weapon was discharged in lawful defense of a person or property; or
- d. The bow and arrow discharged was a toy designed to be used by children.

(3) This section shall not apply to any shooting range sponsored and sanctioned by the city.

(Code 1976, § 18-1; Code 1996, § 42-3; Ord. No. 2014-05, § 2, 2-18-2014)

Sec. 44-79.- Regulation of Firearms and Airguns

(a) The carrying of a firearm or air gun by a person other than a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, is prohibited at a:

- (1) public park;
- (2) public meeting of a municipality, county, or other governmental body;
- (3) political rally, parade, or official political meeting; or
- (4) nonfirearms-related school, college, or professional athletic event;

(b) The carrying of an airgun by a minor is prohibited on:

- (1) public property; or
- (2) private property without consent of the property owner.

(c) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring."

Secs. 44-80—44-94. - Reserved.

SECTION 3. INCORPORATION INTO THE CODE; PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Seabrook City Code. Violation of this Ordinance is subject to the penalty section of said Code including, Section 1-15, "General Penalty; Continuing Violations" which provides that any person who shall violate any provision of this Ordinance, shall be fined in an amount of \$500, or the maximum amount permitted by law.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 5. SEVERABILITY.

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Seabrook, Texas, declares that it would have passed each every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 6. NOTICE

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading this 2nd day of February, 2016.

PASSED, APPROVED, AND ADOPTED on second and final reading this 16th day of February, 2016.

By: Glenn Royal
Glenn Royal, Mayor

ATTEST:
By: Robin Hicks
Robin Hicks, TRMC
City Secretary

APPROVED AS TO FORM:
Steven L. Weathered
Steven L. Weathered, City Attorney

