



City of Saginaw

City of Saginaw

Meeting Date: 5/08/2018

Staff Contact: Doug Spears
Interim Police Chief

Agenda Item: 8
(CC-0518-08)

E-mail: policechief@saginawpolice.org

Phone: 817-230-0374

SUBJECT: Action regarding approval of Ordinance No. 2018-04, Amending Article II of Chapter 54 of the Saginaw City Code, "Discharge of Certain Weapons" to add regulations for the discharge of firearms, spring guns, or other dangerous weapons

BACKGROUND/DISCUSSION:

Ordinance No. 2018-04 addresses needed revisions to Article II of Chapter 54 of the City Code. The current ordinance does not address the discharge of actual firearms. It only addresses BB, pellet, air or dart guns, and other non-typical firearm devices. Additional information is included in the attached memo.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of Ordinance No. 2018-04, amending Article II of Chapter 54 of the Saginaw City Code, "Discharge of Certain Weapons" to add regulations for the discharge of firearms, spring guns, or other dangerous weapons.

Attachments

Memo from Captain Ragsdale
Proposed Ordinance

**SAGINAW POLICE DEPARTMENT
INFORMATIONAL MEMO**



TO: Doug Spears, Interim Police Chief
FROM: Russell Ragsdale, Captain
REF: Firearms Discharge Ordinance Modifications
DATE: May 1, 2018

Saginaw City Code, Chapter 54, Offenses and Miscellaneous Provisions, Article II. Discharge of Certain Weapons, Section 54-31 through 54-35, is in need of significant modification. Primary concern is the ordinance does not address the discharge of actual firearms, it currently only addresses BB, pellet, air or dart guns and other non-typical firearm devices. Paragraph (b) of 54-31 identifies non-typical prohibited weapons and states, “other than firearms, the discharge of which is prohibited and regulated by separate ordinance”. At issue is there is not another ordinance in any of the City codes or ordinances that address or prohibit the discharge of firearms within the City.

The requested revisions incorporate necessary clarification and places all firearms related ordinances within the same Article and Section as it should be. I have included a provision, mirroring other cities with similar large farm or agricultural tracts, allowing the actual property owner or their immediate family member to obtain a free permit for the discharge of certain firearms or for hunting upon their own property, provided the the acreage meets or exceeds a 50 acre minimum. There are only a couple of land parcels remaining that would likely meet the 50 acre size requirement. Preference would be to eliminate the permit option for firearms discharge to assist in eliminating firearms discharge complaints and to maintain consistent regulation throughout the City.

Necessary sections have been added to include definitions, permitting, fees, permit revocation and penalties.

SUMMARY

The reason for seeking modifications to the ordinance is that current ordinance allows prohibition for the discharge of BB guns, pellet guns, slingshots, bow and arrow and even the use of nunchakus within the city limits, however there are not provisions to regulate the discharge of traditional firearms within the city. State Law prohibits discharge of a firearm across a roadway or property line, but does not necessarily regulate shooting on an individual’s own property. Without recommended revision to the ordinance, an individual could technically install a bullet trap/stop on their property and routinely discharge a large caliber firearm and there is little legal means we could apply to prevent or address it. In today’s society and the unfortunate reoccurrence of gun violence and tragic active shooter events it justifiably causes significant alarm to citizens and police alike when gunshots are heard and reported. The recommended revisions to the ordinance provides the police department with a necessary enforcement mechanism preventing the discharge of firearms in areas where it poses a significant safety concern.

ORDINANCE NO. 2018-_____

AN ORDINANCE OF THE CITY OF SAGINAW AMENDING ARTICLE II OF CHAPTER 54 OF THE SAGINAW CITY CODE, “DISCHARGE OF CERTAIN WEAPONS” TO ADD REGULATIONS FOR THE DISCHARGE OF FIREARMS, SPRING GUNS, OR OTHER DANGEROUS WEAPONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw, Texas is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Saginaw, Texas has a substantial interest in protecting the health, safety, welfare of the general public; and

WHEREAS, the City of Saginaw, Texas finds its current regulations regarding the discharge of certain weapons within the City to be in need of updating to include the discharge of firearms, spring guns, and other dangerous weapons; and

WHEREAS, the City of Saginaw, Texas finds that enacting these amendments to be necessary in protecting the health, safety, welfare of the general public; and

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

SECTION 1.

Article II of Chapter 54 of the Saginaw City Code, “Discharge of Certain Weapons”, is hereby amended to read as follows:

ARTICLE II. DISCHARGE OF CERTAIN WEAPONS

Sec. 54-31. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

- (a) *Archery equipment* means any weapon consisting of a curved, flexible strip of material with a cord, cable or string strung taut between the two ends in which to discharge an arrow, bolt or other similar object and shall be held to include, but not be limited to, the following: bow, compound bow, crossbow, long bow, recurve bow or other similar weapons.

- (b) *Air Gun* means any weapon constructed to discharge a steel, zinc or copper projectile by means of compressed air or compressed gas and shall be held to include, but not be limited to, the following: air rifles, air guns, air pistols, BB guns, pellet guns and other similar air or gas propelled weapons. The term does not include Airsoft guns.
- (c) *Airsoft gun* means any weapon constructed to discharge a plastic BB or pellet by means of compressed air, compressed gas or electric motor. Airsoft Guns are typically used for game play and team competitions, and are not designed to harm or penetrate a target.
- (d) *Centerfire* means a cartridge which has a centrally located primer in the base of the case, which is for the most part removable.
- (e) *Dangerous Weapon* means any weapon or device, not specifically defined in this section and of any description by whatever name known that is capable of discharging a projectile a greater distance than 30 feet.
- (f) *Firearm* means any weapon designed, made or adapted to discharge a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use and shall include, but not be limited to, the following: handguns, long-guns, pistols, rifles, revolvers, shotguns and other similar weapons.
- (g) *Game Animal, Upland Game Bird and Migratory Game bird* shall have the meaning as defined in the current "Texas Parks and Wildlife, Outdoor Annual, Hunting and Fishing Regulations" manual.
- (h) *Muzzleloader* means any rifle, shotgun, or pistol which is designed to be loaded from the muzzle and designed to use black powder, or a black powder substitute, and which cannot use rimfire or Centerfire ammunition.
- (i) *Projectile* shall include, but not be limited to, the following: arrow, ball, BB, bullet, dart, missile, pellet, projectile, rock, shot, slug or other solid object of similar material.
- (j) *Rimfire Cartridge* means a cartridge which contains the priming mixture within the rim of the base of the cartridge.
- (k) *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
- (l) *Slingshot* means any weapon made or constructed to discharge a projectile by means of rubber or elastic force.
- (m) *Spring Gun* means any spring operated weapon constructed to discharge a projectile by means of spring tension.

(n) *Weapon* means archery equipment, air gun, dangerous weapon, firearm, slingshot, spring gun or zip gun as defined in this section.

(o) *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.

Sec. 54-32. Prohibited.

It shall be unlawful for any person to discharge, shoot, propel, hurl or fire any archery equipment, air gun, dangerous weapon, firearm, muzzleloader, slingshot, spring gun, or zip gun, as defined in Sec 54-31, unless the said person has first obtained a permit for such discharge, as defined in section 54-36.

Sec. 54-33. Minors not permitted to discharge weapons.

It shall be unlawful for a parent or any other person having legal custody or control of any child under the age of 18 years to permit such child to discharge any archery equipment, air gun, dangerous weapon, firearm, muzzleloader, slingshot, spring gun, or zip gun, as defined in section 54-31, within the corporate limits of the city, unless the parent or legal guardian of the child is present at the time of the discharge and a permit has been issued. A violation of section 54-31 by any child under 18 years of age shall be prima facie evidence of the guilt of the parent or other person having legal control or custody of such child. This shall be rebuttable by proof that such violation occurred without the knowledge or consent of the adult.

Sec. 54-34. Minors not to carry weapons.

It shall be unlawful for any child under 18 years of age to carry or transport any archery equipment, air gun, dangerous weapon, firearm, muzzleloader, slingshot, spring gun, or zip gun, as defined in section 54-31, within the corporate limits of the city unless such child is accompanied by an adult person during the time of such carrying or transport. It shall be the duty and right of any police officer of the city if he shall find a child in possession of such device in violation of this section to take such weapon into his official custody, delivering a written and signed receipt to the person from whom it is taken. The receipt shall have printed notice thereon that such property may be reclaimed by the parent or person having legal custody of such child at the city police station. Prompt notice shall be mailed to the parent or custodian, if their name and address is furnished by the child, of the seizure of such property and the right of the parent or custodian to reclaim it.

Sec. 54-35. Exemptions.

a) This article shall not be construed as to prohibit the discharge of any archery equipment, air gun, dangerous weapon, firearm, slingshot, spring gun, or zip gun, as defined in section 54-31, by any police officer, member of the armed forces of the state or nation, a veterinarian or animal control officer, or their agents or employees, in the regular discharge of their duties or to the discharge of archery equipment or other named devices herein during sporting events

supervised by municipal or school authorities with adequate supervision and control to prevent errant carriage of the propelled devices into areas dangerous to the general public.

- b) This article shall not prohibit the discharge of a weapon at a range or other similar location so specifically designed, provided such discharge is in the course of regular functions and training, and such range is operated by a governmental entity or a branch of the armed services.
- c) This article shall not prohibit the discharge of a firearm or air gun at a Sport shooting range.
- d) This article shall not prohibit the reasonable discharge of a weapon for the necessary and lawful protection of one's person, premises or property.
- e) This article shall not prohibit the discharge of a firearm by a landowner, who is engaged in a farm operation and the discharge is for the purpose of protecting crops, poultry or livestock from birds or animals.

Sec. 54-36. Permit required for discharge of weapons.

A permit to discharge a weapon may be issued to individuals who comply with the following criteria:

- a) An application for a permit shall be filed in writing on forms provided by the City and accompanied by a fee, if any.
- b) Persons over eighteen (18) years of age may apply for an individual permit to discharge archery equipment, air guns, firearms, muzzleloaders, or spring guns. The parent or legal guardian of a child under eighteen (18) years of age may apply for a permit, on behalf of the child, to discharge archery equipment, air guns, firearms, muzzleloaders, or spring guns, provided that the parent or legal guardian accompanies the child at the time of such discharge.
- c) Persons applying for a permit, other than a landowner or his immediate family, must present written proof of having successfully completed a Hunter Education Training Course approved or recognized by the State of Texas.
- d) Persons applying for a permit, other than a landowner or his immediate family, must present a valid Texas Hunting License, if intending to hunt game or non-game animals, upland game birds or migratory game birds.
- e) Persons applying for a permit must present proof of land ownership, or written permission from a landowner or landowner's agent to discharge a weapon on said property, along with any type of hunting that has been authorized (game animal, upland game bird, and migratory game bird).

- f) A topographical map shall be required identifying the parcel of land in which the discharge of a weapon will be allowed.

Sec. 54-37. Limitations on permits.

Permits issued for the discharge of any archery equipment, air gun, firearm or spring gun, as defined in section 54-36, shall be subject to the following limitations:

- a) The property upon which the discharge will occur shall be at least fifty (50) contiguous acres.
- b) The holder of a permit shall not discharge any archery equipment, air gun, firearm, or spring gun within 300 feet of a residence or occupied building located on another property.
- c) The holder of a permit will not allow the discharge of any archery equipment, air gun, firearm, muzzleloader, or spring gun in a manner that the projectile is likely to travel on, over or across an adjacent tract of land.
- d) Permits issued for the discharge of firearms or muzzleloaders shall be limited to rim-fire calibers and shotguns, not exceeding 12 gauge. No Centerfire calibers will be authorized by permit.
- e) The holder of a permit agrees to carry the permit with them at all times while discharging a weapon and shall produce it upon demand by any law enforcement officer
- f) The holder of a permit agrees that no discharge of any archery equipment, air gun, firearm, muzzleloader, or spring gun or other weapon will occur prior to 7am nor later than 9pm, Monday – Saturday, and that no discharge will occur on Sundays.
- g) The permit holder understands and agrees that they must accompany their child who is under 18 years of age at any time the child discharges any weapon pursuant to this permit.
- h) The holder of a permit understands and agrees that the issuance of this permit in no way relieves them of any civil and/or criminal liability for any action that may result from the improper use of any archery equipment, air gun, firearm, muzzleloader, spring gun or other weapon.
- i) The holder of a permit understands and agrees that the issuance of this permit in no way relieves them of responsibility for adhering to State and Local laws, regulations or licensing requirements for the taking of game or non-game animals.
- j) The holder of a permit understands and agrees that the City of Saginaw, its agents, or employees, are not liable for any actions of the holder in regards to the issuance of this permit.
- k) Permits issued for the sole purpose of taking game animals, upland game birds or migratory game birds shall expire at the end of the current hunting season, as identified by the Texas Parks and Wildlife Department.

- l) Permits issued to landowners or their immediate family will expire on December 31st of each year.
- m) Permits issued to persons, other than a landowner or his immediate family, will expire six months after issuance.

Sec. 54-38 Fees

Permit fees shall be determined by Council Resolution. However, no fee shall be required for a permit issued to a landowner or his immediate family to discharge a weapon on property owned by said landowner.

Sec. 54-39. Revocation of permit.

A violation of any provisions of this article, or any permit issued hereunder, or on any property for which a permit has been issued, may result in the cancellation of all permits for the discharge of any archery equipment, air gun, firearm, muzzleloader or spring gun on such property and the denial of future applications for permits on such property.

Sec. 54-40. Penalty.

Any person violating this Chapter is guilty of a misdemeanor and shall be punished by a fine not to exceed \$500. Any weapons used or carried in violation of this Chapter shall be seized and impounded by a police officer to be disposed of through prescribed legal procedures.

Sec. 54-41. Application of article.

This article is not intended to prohibit the discharge or use of:

- (1) Toy guns and toy bows, including Airsoft guns, propelling blunt plastic bullets and blunt rubber tipped arrows, or similar non-dangerous devices for a distance of not more than 30 feet;
- (2) Toy devices launching toy airplanes, spinning wheels and similar nondangerous objects for a distance of not more than 30 feet;
- (3) Sporting equipment hurling or propelling projectiles of various kinds for practice and game purposes; or
- (4) Pinball and target games wherein the projectiles are propelled within an enclosed gaming area of not more than 30 square feet.

Secs. 54-42--54-60. Reserved.

SECTION 4.

That this ordinance shall be cumulative of all other ordinances of the City of Saginaw and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 5.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

That all rights or remedies of the City of Saginaw, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding the discharge of any weapon that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each violation of this ordinance.

SECTION 8.

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

SECTION 9.

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

PASSED AND APPROVED ON this the _____ day of _____, 2018.

TODD FLIPPO, MAYOR

ATTEST:

JANICE ENGLAND, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

BRYN MEREDITH, CITY ATTORNEY

City of Saginaw
PERMIT TO DISCHARGE WEAPON

Applicant's Name (Must be 18 years of age or older)

Date

Name of child(ren) if under 18 years of age (include Date of Birth)

Home Address

City

State

Driver's License/ID#

State

Date of Birth

Height

Weight

Home Phone

Work Phone

Cell Phone

Location of Property (Use street address or names of boundary roads)

Are you the Land Owner or an immediate family member Yes No

Size of Property(in contiguous acres)_____

I hereby request a permit from the City of Saginaw to discharge weapons within the city limits. I have read the limitations associated with this permit request, and I agree to abide with them. I further understand the City may reject or revoke this permit at any time for violation of these limitations. (Limitations are listed on reverse side)

I request a permit to discharge the following type of weapon(s):

- Archery Equipment Air Gun Slingshot Spring Gun
 Firearm- (Specify firearm type)
 Rim-fire
 Shotgun (no larger than 12 gauge)

I request a permit for the following reason(s):

- Hunting of Game Animals, Game Birds and Migratory Game Birds
 Hunting non-game animals
 Target shooting

SWORN TO BEFORE ME THIS ____ DAY OF _____, 20____.

Applicant Signature

Notary Public for the State of Texas

My Commission Expires_____.

Land Owners Permission and Assumption of Responsibility

(Required if applicant is not the land owner)

I hereby certify and swear that I am the owner of the above described property, and that I have granted permission for the applicant to utilize said property for the discharge of a weapon as identified above. I accept full and legal responsibility for all injuries and damages resulting from applicants actions associated with this permit and agree that I have requested the City of Saginaw to issue this permit on my behalf and will in no way hold the City liable for the actions of the applicant.

SWORN TO BEFORE ME THIS ____ DAY OF _____, 20____.

Landowner Signature

Notary Public for the State of Texas

Land Owner Address

My Commission Expires_____.

Home Phone #

Cell Phone #

Reviewing Official _____
Initials & ID#

Date

Approved Expires _____
 Denied

Limitations-

Permits issued for the discharge of any archery equipment, airgun, firearm, muzzleloader or spring gun, as defined in section 54-3 of the Ordinances of the city of Saginaw, shall be subject to the following limitations:

- a) The property upon which the discharge will occur shall be at least fifty (50) contiguous acres.
- b) The holder of a permit shall not discharge any archery equipment, airgun, firearm, and muzzleloader or spring gun within 300 feet of a residence or occupied building located on another property.
- c) The holder of a permit will not allow the discharge of any archery equipment, airgun, firearm, muzzleloader or spring gun in a manner that the projectile is likely to travel on, over or across an adjacent tract of land.
- d) Permits issued for the discharge of firearms shall be limited to rim-fire calibers and shotguns, not exceeding 12 gauge. No center-fire calibers will be authorized by permit.
- e) The holder of a permit agrees to carry the permit with them at all times while discharging a weapon and shall produce it upon demand by any law enforcement officer.
- f) The holder of a permit agrees that no discharge of any archery equipment, airgun, firearm, muzzleloader or spring gun or other weapon will occur prior to 7am nor later than 9pm, Monday – Saturday, and that no discharge will occur on Sundays.
- g) The permit holder understands and agrees that they must accompany their child who is under 18 years of age at any time the child discharges any weapon pursuant to this permit.
- h) The holder of a permit understands and agrees that the issuance of this permit in no way relieves them of any civil and/or criminal liability for any action that may result from the improper use of any archery equipment, airgun, firearm, muzzleloader, spring gun or other weapon.
- i) The holder of a permit understands and agrees that the issuance of this permit in no way relieves them of responsibility for adhering to State and Local laws, regulations or licensing requirements for the taking of game or non-game animals.
- j) The holder of a permit understands and agrees that the City of Saginaw, its agents, or employees, are not liable for any actions of the holder in regards to the issuance of this permit.
- k) Permits issued for the sole purpose of taking game animals, upland game birds or migratory game birds shall expire at the end of the current hunting season, as identified by the Texas Parks and Wildlife Department.
- l) Permits issued to landowners or their immediate family will expire on December 31st of each year.
- m) Permits issued to persons, other than a landowner or his immediate family, will expire six months after issuance.