

ORDER
Regulating Discharge of Firearms

Whereas, the Commissioners Court of Montgomery County, Texas desires to promote public safety in the County; and

Whereas, Section 235.022 of the Texas Local Government Code provides that a Commissioners Court of a County, by order, may regulate and/or prohibit the discharge of firearms on lots that are ten acres or smaller and which are located in subdivisions which have been platted and filed of record, and which subdivisions are located, all or part, in the unincorporated area of the County.

Now, Therefore, the Montgomery County Commissioners Court enters the following Order in multiple parts as follows:

I.
Definitions

Firearm: 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.

Peace Officer: Peace Officer, under this Order, is defined in Article 2.12, Texas Code of Criminal Procedure.

Subdivision: A subdivision of real property, platted and filed of record as provided in Chapter 232, Texas Local Government Code.

Subdivision Lot: A portion of a platted, recorded subdivision which is ten acres or less in size, and which carries a lot designation.

II.

The discharge of firearms is hereby prohibited in Montgomery County on lots that are ten acres or smaller in a subdivision which is located in the unincorporated area of the County. Should a subdivision be partly located within a municipality, then the prohibition provided herein shall apply only to that portion of the subdivision which is outside the incorporated limits of said municipality.

III.

A person commits an offense if the person intentionally or knowingly discharges a firearm on a subdivision lot in a subdivision in the unincorporated area of Montgomery County. An offense under this section is a Class C misdemeanor.

IV.

It is a defense to prosecution under this Order if the person discharging the firearm is a peace officer, on duty, acting in his official capacity.

It is a defense to prosecution under this Order if the person discharging the firearm is acting in self-defense, defense of a third party, or in defense of a person's property, as defined in Chapter 9, Texas Penal Code.

It is a defense to prosecution under this Order if the person discharges the firearm under circumstances that constitute a defense to prosecution as set forth in Section 42.09(e) and Section 42.09(g), Texas Penal Code.

V.

The prohibition in this Order may be waived to allow the discharge of a firearm by a federally licensed firearms dealer or a business establishment 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, if the operations were in existence prior to the original effective date of this Order. Such waiver may be granted upon written request submitted to Commissioners Court. Upon receipt of a written request for waiver, the Court shall determine, in its discretion, whether to grant the waiver. No waiver may be granted unless the applicant can clearly demonstrate that operation of the business/activity will not impair public safety or otherwise constitute a danger to persons or property.

This Order is adopted by the Montgomery County Commissioners Court this the _____ day of _____, 2011.

[Signature page follows]

MONTGOMERY COUNTY, TEXAS

Alan B. Sadler
County Judge

Mike Meador
Commissioner, Precinct 1

Craig Doyal
Commissioner, Precinct 2

Ed Chance
Commissioner, Precinct 3

ATTEST:

Mark Turnbull
County Clerk

Ed Rinehart
Commissioner, Precinct 4