

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SECTION 1.09.017, "FIREARMS, FIREWORKS, ETC." OF ARTICLE 1.09, "PARKS AND RECREATION," OF CHAPTER 1, "GENERAL PROVISIONS," AND ARTICLE 8.03, "FIREARMS AND WEAPONS," OF CHAPTER 8, "OFFENSES AND NUISANCES," OF THE CODE OF ORDINANCES RELATIVE TO THE POSSESSION AND/OR DISCHARGE OF FIREARMS AND OTHER WEAPONS, IN COMPLIANCE WITH STATE LAW REGARDING THE CARRYING AND DISCHARGE OF FIREARMS, AND AUTHORIZING HUNTING ON CERTAIN TRACTS OF LAND, ALSO IN COMPLIANCE WITH STATE LAW, AND REPEALING ANY INCONSISTENT PROVISION; MAKING FINDINGS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town"), in the past has adopted ordinances that addressed the carrying of firearms on public property or in public buildings; and

WHEREAS, House Bill 1927, adopted by the 87th Texas Legislature, Regular Session, and effective on September 1, 2021, prohibited Texas municipalities from adopting or enforcing an ordinance or other measure that restricted certain specific gun rights; and

WHEREAS, as a result of the adoption of HB 1927 in 2021, certain previously adopted Town ordinances as passed are no longer enforceable and, as part of a periodic comprehensive review of Town ordinances, it is necessary for the Town to amend and/or repeal certain ordinance provisions that are inconsistent with HB 1927.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Section 1.09.017, "Firearms, Fireworks, etc." of Article 1.09, "Parks and Recreation," of Chapter 1, "General Provisions," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 1.09.017 Firearms, fireworks, etc.

It shall be unlawful for any person to discharge firearms, and carry or discharge fireworks, air guns, bows and arrows, slingshots or any device which would or could project any object which would or could create a fire hazard or any hazard or danger to the public in a park, except with joint written approval of the Parks and Recreation Director and the Town's Fire

Chief, or his/her authorized agent and/or representative. Nothing herein shall conflict with any applicable state statute regulating the carrying or use of firearms.”

SECTION 3

From and after the effective date of this Ordinance, Article 8.03, “Firearms and Weapons,” of Chapter 8, “Offenses and Nuisances,” of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

“ARTICLE 8.03. FIREARMS AND WEAPONS

Sec. 8.03.001 Carrying of Firearm; Discharge of Rifle, Handgun or Shotgun.

(a) It shall be unlawful for any person, other than a peace officer, to carry a firearm into the municipal court or any room or office utilized by the municipal court.

* * *

Sec. 8.03.002 Other Limitations on Discharge in Town Limits.

(a) It shall be unlawful for any person to discharge any BB gun, pellet gun, gun, pistol, rifle, or firearm of any kind within the Town limits, except within a properly secured indoor firearms range, constructed and maintained in accord with National Rifle Association specifications and standards, or upon a range owned and operated by a governmental entity.

(b) The terms “gun,” “pistol,” “rifle,” and “firearm” as used in this section shall not only be defined as to include all percussion weapons, but shall also include all air guns, air pistols, air rifles, paintball guns, and any other firearm using air pressure to propel a projectile.

(c) This section shall not be construed to prohibit any peace officer from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending person or property.

(d) The discharge of weapons and hunting, with any permit required by the State of Texas, shall be allowed on private property annexed into the Town after September 1, 1981, with a shotgun, air rifle or pistol, BB gun, or bow and arrow on a tract of land of ten (10) acres or more and:

(1) more than 1,000 feet from the property line of any public land, as said land is defined in Section 229.003 of the Texas Local Government Code, as amended, school, commercial day care facility or hospital;

(2) more than 600 feet from the property line of a residential subdivision or multifamily residential complex; and

(3) more than 150 feet from a residence or occupied building on another property.

(4) For purposes of this subsection, the person discharging a weapon described in this subsection and on property described in this subsection must have the express written permission from the owner on or over whose property any projectile

would fall. In no event shall said weapon be used in a manner not reasonably expected to cause a projectile to cross the boundary of any tract.

(e) The discharge of weapons and hunting, with any permit required by the State of Texas, shall be allowed on private property annexed into the Town after September 1, 1981, with a center fire or rim fire rifle or pistol of any caliber on a tract of land of fifty (50) acres or more and:

(1) more than 1,000 feet from the property line of any public land, as said land is defined in Section 229.003 of the Texas Local Government Code, as amended, school, commercial day care facility or hospital;

(2) more than 600 feet from the property line of a residential subdivision or multifamily residential complex; and

(3) more than 300 feet from a residence or occupied building on another property.

(4) For purposes of this subsection, the person discharging a weapon described in this subsection and on property described in this subsection must have the express written permission from the owner on or over whose property any projectile would fall. In no event shall said weapon be used in a manner not reasonably expected to cause a projectile to cross the boundary of any tract.

(f) In the event state law is amended to provide more or fewer restrictions than those referenced in Chapter 229 of the Texas Local Government Code, as amended, then the provisions of said Chapter 229 shall prevail. Further, nothing herein shall limit an individual's right to protect life and property against animal predators, wild animals, or marauding animals.

(g) Any person, firm or corporation who violates any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined as provided in Section 1.01.009 of this Code for each such violation, and each and every day such violation continues shall be considered a separate offense; provided, however, such penal provision shall not preclude a suit to enjoin such violation."

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 5

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 6

This Ordinance shall become effective after its passage and publication, as required by state law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 13TH DAY OF FEBRUARY, 2024.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney