

IN THE COMMISSIONERS COURT OF CALDWELL COUNTY, TEXAS

AN ORDER PROHIBITING THE DISCHARGE OF FIREARMS IN SUBDIVISIONS

WHEREAS, the Commissioners Court of Caldwell 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 10 acres or smaller and which subdivisions are located, all or in part, in the unincorporated area of the County.

NOW, THEREFORE, the Caldwell County Commissioners Court enters the following Order in multiple parts as follows:

SECTION 1 – 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. (Penal Code Section 46.01(3)).

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

Subdivision: A subdivision of real property, located in the unincorporated area of the county and for which a plat is required to be prepared and filed under Chapter 232, Texas Local Government Code.

SECTION 2 - Prohibition

The discharge of firearms is hereby prohibited in Caldwell County on lots that are 2.1 acres or smaller in a subdivision which is located in the unincorporated area of the County.

SECTION 3 – Penalty

A person commits an offense if the person intentionally or knowingly discharges a firearm in a subdivision in the unincorporated area of Caldwell County. An offense under this Order is a Class C misdemeanor. If it is shown on the trial of an offense under this Order that the person has previously been convicted of an offense under this Order, the offense is a Class B misdemeanor.

SECTION 4 – Defenses to Prosecution

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), Section 42.092(d) and Section 42.092(e), Texas Penal Code.

SECTION 5 – Injunctive Relief

Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of a prohibition or other regulation adopted under Subchapter B of Chapter 235 of the Texas Local Government Code from continuing or occurring.

SECTION 6 - Waiver

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.

The above and foregoing Order was this date ADOPTED and APPROVED by a majority of the Commissioners Court of Caldwell County, Texas, in a meeting duly posted as required by law, this 12th day of March, 2018.

Joe L. Roland Pro-Tem

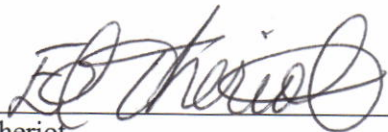
~~Ken Schawc~~
County Judge



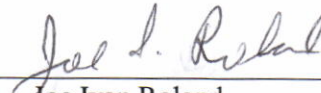
Terry Wright
Commissioner, Precinct 1



Eddie Moses
Commissioner, Precinct 2



Ed Theriot
Commissioner, Precinct 3



Joe Ivan Roland
Commissioner, Precinct 4

Attest:



Carol Holcomb
County Clerk, acting as Ex Officio Clerk of the
Commissioners Court

