

COPY

**ORDINANCE NO. 2004-16**

**AN ORDINANCE OF THE CITY OF BEASLEY, TEXAS, PROHIBITING THE POSSESSION AND USE OF PAINTBALL GUNS, AIR GUNS, OR OTHER SIMILAR DEVICES; PROVIDING FOR A FINE FOR VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**WHEREAS**, the safety of the citizens of Beasley is of primary importance to the City Council of the City of Beasley, Texas;

**WHEREAS**, the health, safety, and welfare of the citizens of Beasley require that the City Council enact provisions to include general precautions against discharge of paintball guns, air guns or similar devices within the City;

**WHEREAS**, the Texas Local Government Code provides municipalities with the power to regulate safety matters and concerns within the municipality not specifically addressed by the State (AG Opinion LO-88-83);

**WHEREAS**, regulating and controlling the possession and use of paintball guns, air guns or similar devices in the City will improve the quality of life of the citizens of Beasley by helping to ensure safety is observed, helping to eliminate injury from premature loading and accidental discharges, eliminating vandalism on public and private properties, and helping to eliminate the possibility of accidental shootings by law enforcement personnel.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Beasley, Texas:

**SECTION 1: PAINTBALL & AIR GUN SAFETY ACT**

**A. Definitions:**

**Air gun:** A device that is operated by compressed air, compressed gas, springs, or any other means is capable of shooting a solid projectile at a velocity of 200 feet or more per second.

**Barrel Blocking Device:** A device including barrel condom, barrel sock or barrel bag to cover the barrel of a paintball gun or marker with an attachment to a paintball gun or marker by a strap and a barrel plug to place inside the barrel of a paintball gun or marker, to block paintball(s), should the paintball gun, pistol, rifle, marker or other device discharge accidentally.



**Barrel Blocking Safety System:** A safety system consists of (1) a locking device other than a strap, to secure barrel blocking safety system tightly to the barrel or (2) a paintball disabling device to destroy any misfired paintball(s) and (3) a protective device to block and to reduce impact of any paintball(s), should the paintball gun, pistol, rifle, marker, or other device discharge accidentally.

**Hopper:** A device designed to hold and to supply paintballs to a paintball gun, pistol, rifle, marker, or other device when the hopper is attached to a paintball gun or marker.

**Hopper Safety Device:** A safety device associated with a hopper to keep paintballs from exiting a hopper until the hopper safety is manually changed from its safety or locked position to its ready or unlocked position and designed to preload paintballs into a hopper without attaching to a paintball gun or marker and/or to prevent premature loading into a paintball gun or marker before readiness.

**Loader:** A device designed to hold paintballs and transfer held paintball(s) into a hopper.

**Loader Safety Device:** A safety device associated with a loader to prevent paintballs from exiting an unlocked hopper until the loader safety is manually changed from its locked to unlocked position when the loader is placed fully inside a hopper and designed to keep all paintballs in captivity since inception to eliminate any premature loading of paintball(s) into a paintball gun or marker before readiness.

**Paintball:** Ammunition for a paintball gun or marker made of gel capsule filled with marking fluid.

**Paintball gun or marker:** A device designed to propel paintball(s) using a compressed gas or air.

**Passive State:** A paintball gun or marker is in a "Passive State" when (1) paintball(s) cannot be propelled from the paintball gun, pistol, rifle, marker, or other device when a trigger is depressed in either a cocked or uncocked position due to the use of a hopper safety device, loader safety device and the barrel of a paintball gun, pistol, rifle, marker or other device is tightly secured by the barrel blocking safety system or when (2) the paintball gun, pistol, rifle, marker, or other device has no paintball(s) inside the gun, pistol, rifle, marker, or other device and the barrel of a paintball gun, pistol, rifle, marker or other device is tightly secured by the barrel blocking safety system and (3) is secured in a non-passenger compartment of the vehicle such as the trunk of the vehicle or is otherwise secured in a way that is not visible to the public such as a bag. An air gun is in a "Passive State" when (1) the gun is unloaded and (2) is secured in a non-passenger compartment of the vehicle such as the trunk of the vehicle or if there is no trunk, is otherwise secured in a way that is not visible to the public such as a bag. A loaded paintball gun, pistol, rifle, marker, or other device and/or the barrel of a paintball



gun, pistol, rifle, marker, or other device unsecured by a barrel blocking safety system is not under any circumstance, in a "Passive State", regardless whether it is secured in a non-passenger compartment of the vehicle such as a trunk or is secured in a way that is not visible to the public such as a bag.

B. Nuisance Defined:

Any air gun or paintball gun, pistol, rifle, marker, or other device which is designed or intended to expel a projectile containing paint, ink, or similar material which can cause injury to people or property or is being possessed on public property shall be recognized as a nuisance and be subject to this ordinance.

C. Discharge Prohibited on Public Property:

No person shall, on any public property, including but not limited to public parks, public streets, playgrounds, open space, recreation facilities, sports complexes, or any other public facility, intentionally or unintentionally discharge, fire, use, or cause to set off an air gun or paint ball gun, pistol, rifle, marker, or other device that propels an object commonly referred to as a "paintball" within the City of Beasley, Texas. Violations shall be subject to a fine of up to \$200.00 for the first offense and not more than \$100.00 for any subsequent offense. The cost of restitution in an amount to be determined by the court for damages to person or property suffered by victims shall be the responsibility of the individual who violates this chapter.

D. Possession Prohibited on Public Property:

No person shall, on an public property, including but not limited to public parks, public streets, playgrounds, open space, recreation facilities, sports complexes, or any other public facility, possess an air gun or paintball gun, pistol, rifle, marker, or other device that propels an object commonly referred to as a "paintball" within the City of Beasley, Texas. An air gun or paintball gun, pistol, rifle, marker, or other device that propels an object commonly referred to as a "paintball" may be possessed in a public place for the purpose of transport so long as it is in its "Passive State", as that term is defined herein. Violations shall be subject to a fine up to \$200.00 for the first offense and not more than \$100.00 for any subsequent offense.

E. Possession on Private Property:

This chapter does not apply to the possession and operation of an air gun or paintball gun, pistol, marker, rifle, or other device that propels an object commonly referred to as a "paintball" on private property provided that the use of such paintball device is being limited to a target which is protected by an appropriate barrier from other



private property and prevents damage to same. Under no circumstance shall an air gun be permitted to aim at other human beings and/or animals except for the protection of life, limb, or property provided this use is not reckless or negligent. Under no circumstance shall a paintball gun, pistol, marker, rifle, or other device that propels an object commonly referred to as a "paintball" be permitted to aim at other human beings and/or animals except for the protection of life, limb, or property provided this use is not reckless or negligent and except under circumstances where proper protection is given to the public, to adjoining landowners, and to the participants in an organized paintball game. This protection includes but is not limited to wearing protective eye-wear, masks, goggles and padding. It is recommended that the paintball gun, pistol, rifle, marker, or other device that propels an object commonly referred to as a "paintball" be equipped with a hopper safety device, loader safety device and the barrel of paintball gun, pistol, rifle, marker, or other device be secured tightly by barrel blocking safety system, if same would eliminate the possibility of accidental discharges, serious injuries and premature loading of paintballs into a paintball gun, pistol, rifle, marker or other device before readiness and a warning label be placed that would clearly identify that misuse without safety precautions can result in serious injuries.

F. Business Entities:

This chapter applies to any commercial entity that requires the participation of paintball players or customers in paintball games, target practice, paintball fields, paintball pro-shops, rental, sales of paintball equipments, purchase of paintballs and related business transactions and the discharge of paintballs by any paintball players or customer is carried out in an approved and controlled environment in accordance with the paintball safety precautions and standards recommended herein to protect everyone, players and bystanders from accidental injuries. The paintball business people, paintball field owners, corporations and related business entities are required to exercise the highest safety standard to provide accurate information, warnings, safety standards, rules, regulations and instructions pertaining to paintball sport, paintball gears and safety equipments to the customers and players. It is mandatory for paintball field owners, business operators or equivalent to impose on the paintball players or customers to use appropriate protective gears that are essential for safety such as protective eyewear, masks, goggles to protect the players from serious injuries and hopper safety device, loader safety device and barrel blocking safety system to eliminate premature loading, to prevent accidental discharges, to protect everyone, players and innocent bystanders from accidental injuries. This chapter does not apply to other commercial paintball business entities which have no engagement, involvement or participation from the paintball players or customers in the discharge of paintballs, target or paintball shooting for profit or non profit reasons and the discharge of paintballs by the paintball business people, owners, managers, employees, coaches, hired professional players and equivalent for reasons not concerning the customers or paintball players, is carried out in an approved and controlled environment in accordance with the safety precautions and standards recommended herein.

F. Law Enforcement Exclusion:

This chapter shall not prohibit any action by a member of law enforcement, the military, animal control officer, or other official in the discharge of his/her official duties or as otherwise authorized pursuant to the laws of this State or of the United States.

G. General Penalty:

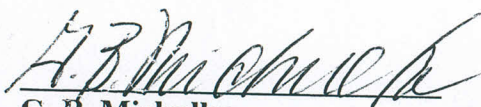
The violation of any provision of this ordinance, unless otherwise provided herein, shall be punished by:

- (1.) a fine not to exceed (\$200.00) in all cases arising under any rule, regulation, ordinance or police regulation that governs fire safety or public health and sanitation;
- (2.) a fine not to exceed (\$200.00) in all other cases;
- (3.) each day any violation of this ordinance continues will constitute a separate offense. If any such violation is designed as a nuisance under the provisions of this code, the nuisance may be summarily abated by the City Manager or their assigns.

**THE ABOVE ORDINANCE WAS DULY PASSED AND APPROVED** by a vote of

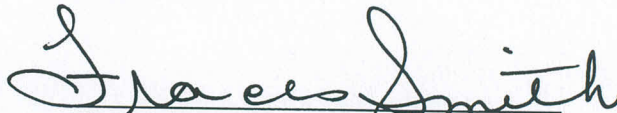
four "ayes" in favor and zero "no's" against on this, the 14<sup>th</sup> day of December, 2004.

**ATTEST:**



**G. B. Michulka**  
City Secretary

**APPROVED:**



**Frances Smith**  
Mayor of City of Beasley