ORDINANCE NO. 1829

AN ORDINANCE introduced by Councilmember Lisa Stubbs amending the provisions of City of Topeka Code Chapter 30 and § 54-102 concerning the use of paintball guns within the city limits of Topeka, and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. Topeka City Code § 54-102, Discharging of firearms, is hereby amended to read as follows:

Discharging of firearms

(a) It shall be unlawful for any person, other than a peace law enforcement officer in the performance of duty, to discharge any cannon, gun, pistol, rifle or other firearm, or to discharge or use any spring gun or slingshot within the corporate limits of this city except discharge of blank rounds as part of a ceremonial event for which prior written notice has been provided to the chief of police.

(b) Discharge of paintball guns. It shall be unlawful for any person, other than a law enforcement officer in the performance of duty, to discharge any paintball gun within the corporate limits of this city, except at a properly licensed paintball business in accordance with all of the paintball business's rules and regulations.

(bc) Discharge of airguns. It shall be unlawful for any person, other than a peace law enforcement officer in the performance of duty, to discharge any airgun within the corporate limits of this city unless they have obtained and maintain a valid permit as provided herein.

(ed) Permits for discharge of BB/pellet guns. Upon the written application made at least two (2) weeks before the proposed event, in a form acceptable to the
chief of police and the payment of an application fee of fifty dollars ($50,00), the chief of
police may issue a permit to discharge airguns on specified premises in the city for the
purposes of allowing the establishment of shooting ranges. No permit shall be issued
unless the proposed activity is found to be in compliance with administrative regulations
established by the chief of police and approved by City Council resolution, for the
purpose of regulating the discharge of airguns as provided herein. Further, any permit
so issued shall be subject to such terms and conditions as the chief of police
determines reasonably necessary or advisable to protect the safety of the participants
therein and the general public, including, but not limited to the following:

i. The applicant shall provide proof of public liability insurance for the
permitted activity with a minimum single occurrence coverage of five
hundred thousand dollars ($500,000.00). The policy shall name the City
of Topeka as an additional insured.

ii. The applicant shall provide written proof that the location of the
proposed activity is zoned appropriately and that the activity is permitted
by the owner of the property.

iii. The applicant shall provide a description of activity safeguards that
are intended and designed to minimize the exposure to members of the
public or adjoining properties from the activity.

iv. The applicant shall provide proof of adequate training and
supervision of the activity by qualified persons over the age of eighteen
(18).

Any permit so issued shall be valid for no more than two (2) weeks, but may be
revoked at any time by the chief of police upon the failure of the permittee to abide by any of the permit regulations, terms and conditions. No person or organization shall be issued a permit more than once per calendar year each quarter of each calendar year.

(de) Definitions. For the purposes of this Article the following terms and phrases shall have the meanings hereinafter ascribed to them:

i.) Airgun. Shall mean an instrumentality designed for and used to fire or eject one or more projectiles by means of a spring or by compressed air or other gas or vapor. The term, airgun, shall not include instrumentalities designed and intended to fire or eject a projectile under water in conjunction with scuba diving, instrumentalities designed and intended to fire or eject a fastener as part of the construction trades or children's toys; an airgun of the type commonly referred to as a BB gun is not a children's toy for the purposes of this subsection;

ii.) Chief of Police. Shall mean the chief of the Topeka police department or his or her designee.

iii.) Firearm. Shall mean an instrumentality designed for and intended to fire or eject one or more projectiles by means of an explosive charge or by the ignition of one or more flammable or explosive substances. The term, firearm, shall include those instrumentalities commonly referred to as rifles, shotguns, revolvers, handguns and pistols, but shall not include instrumentalities designed and intended to fire or eject a fastener as part of the construction trades;

iv.) Law enforcement officer includes any federal, state, county or city employee who is empowered to effect an arrest with or without a warrant and who is authorized to carry a firearm as part of such employment, regardless of
whether they are on or off duty, any law enforcement officer as defined in K.S.A. 12-4113(i) and amendments thereto, K.S.A. 21-3110(10) and amendments thereto, K.S.A. 22-2202(13) and amendments thereto, K.S.A. 74-5602(e) and amendments thereto, or any member of the Topeka Police Department Reserves or the Shawnee County Sheriff's Office Reserves.

v.) Paintball gun. Shall mean an airgun designed and used to fire or eject a hollow, plastic-like frangible pellet containing nontoxic, paint-like marking fluid.

Section 2. Topeka City Code Chapter 30, Business, is hereby amended by the addition of the following article:

Article XIII. Paintball License

Section 3. Required.

It shall be unlawful for any person to engage in or conduct a paintball business in the city limits of Topeka without obtaining a license as provided in this division.

Section 4. Application.

Applicants for a license for a paintball business shall file an application with the city clerk on forms to be prepared by and supplied by the city for that purpose. The application form shall ask, but not be limited to the following:

1. The applicant shall provide proof of public liability insurance for the permitted activity with a minimum single occurrence coverage of five hundred thousand dollars ($500,000.00). The policy shall name the City of Topeka as an additional insured.

2. The applicant shall provide written proof that the location of the
proposed paintball business is zoned appropriately and that the activity is permitted by the owner of the property.

3. The applicant shall provide a description of safeguards that are intended and designed to minimize the exposure to members of the public or adjoining properties from the activity.

4. The applicant shall provide proof of adequate training and supervision of the activity by qualified persons over the age of eighteen (18).

5. The applicant shall provide copies of all rules and regulations of the proposed paintball business which are intended to provide safety to the customers, spectators, and employees. The safety rules, regulations and safeguards shall comply with all administrative rules established by the chief of police regulating the discharge of paintball guns.

Section 5. Insurance prerequisite to issuance.

Before any license is issued under this article, the applicant or licensee shall present to the city clerk evidence of a satisfactory, public liability insurance policy covering all operations of five hundred thousand dollars ($500,000.00) combined single limit for liability and property damage. Should any policy be cancelled, the city shall be notified of such cancellation within ten (10) days after such cancellation is effective, and provisions to that effect placing upon the company writing such policy the duty to give such notice shall be incorporated in such policy. If any such insurance policy at any time fails, in the opinion of the chief of police, to comply with the provisions of this section or to afford reasonably satisfactory protection to the persons intended to be protected thereby, he/she shall in writing so notify the licensee and the city clerk, and failure to
maintain the insurance required by this section shall be grounds for revocation of any such license or, in the discretion of the chief of police, for the suspension thereof until the insurance required by this section is so furnished, and it shall be unlawful for any person to engage in business while the license to do so is for any reason suspended or after such license is for any reason revoked.

Section 6. Fees for license.

a. Fee. The application fee for each such license shall be one hundred dollars ($100.00). This fee shall be paid at the time the application is filed.

b. Expiration. Each license shall be for a term of one (1) year from the date of issuance.

Section 7. Issuance of license.

Upon receipt of an application for certificate of registration and license, the city clerk shall forthwith forward the application to the planning agency and police department. Within ten (10) days of the application date the planning agency and police department shall review the application for compliance with appropriate zoning requirements (planning) and confirmation of the applicant's (police) qualifications. The city clerk shall issue a license after receipt of approval from the planning agency and police department.

Section 8. Penalties.

Any person found in violation of the provisions of this article shall be fined not less than one hundred dollars ($100.00), nor more than four hundred ninety-nine dollars ($499.00), and/or shall serve in jail not more than one hundred seventy-nine (179) days.

Section 9. That original City of Topeka Code Chapter 30 and § 54-102 is
hereby specifically repealed.

Section 10. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the Council of the City of Topeka

JUL 20 2004

James A. McClinton, Mayor

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 6/29/04 BY BSC
TO BE CODIFIED X
NOT TO BE CODIFIED

VYORD/PAINTBALLGUNS 06/29/04