

Passed: 12/22/09  
Published: 12/30/09

Ordinance No. 2004

**AN ORDINANCE AMENDING CHAPTER 9.01 OF THE DERBY MUNICIPAL CODE, ADOPTING BY REFERENCE THE PROVISIONS OF THE 2009 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, TOGETHER WITH CERTAIN AMENDMENTS THERETO; AND REPEALING ORIGINAL CHAPTER 9.01 OF SAID CODE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:**

**Section 1.** Chapter 9.01 of the Derby Municipal Code is hereby amended to read as follows:

9.01.010 Adoption of 2009 Uniform Public Offense Code

The 2009 Uniform Public Offense Code for Kansas Cities (the "Uniform Public Offense Code"), a uniform code prepared by the League of Kansas Municipalities for the regulating public offenses within cities, is hereby adopted by reference and incorporated as an ordinance of the City of Derby, Kansas, except as specific provisions thereof are deleted or amended hereby. Not less than one copy of the Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance no. 2004," with all sections or portions thereof intended to be deleted or amended clearly marked to show any such modification, and to which shall be attached a copy of this ordinance. Such copy shall be filed with the City Clerk and shall be open and available for public inspection at all reasonable hours.

9.01.020 Local amendments to Uniform Public Offense Code.

a. §6.8 of the Uniform Public Offense Code is hereby amended to read as follows:

Section 6.8 Littering

(a) No person shall intentionally or recklessly throw, place or drop litter into, upon or about:

- (1) Any public street, highway, alley, road, right-of-way, park or other public place or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
- (2) Any private property without the consent of the owner or occupant of such property.

(b) "Litter" means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes improperly discarded paper, metal, plastic or glass.

(c) Littering is a class C offense.

- b. §10.5 of the Uniform Public Offense Code is hereby amended to read as follows:

#### 10.5 UNLAWFUL DISCHARGE OF FIREARMS.

Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to prohibit:

(a) the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;

(b) the discharge of firearms in any licensed shooting gallery;

(c) the discharge of firearms by a firing squad for ceremonials;

(d) the discharge of firearms by authorized members of an agency of the U.S. Department of Defense for ceremonials, if approved in advance by the city manager; or

(e) the discharge of firearms by a legitimate gunsmith in pursuit of his or her trade.

It shall be a defense that the defendant was acting within the scope of K.S.A. 21-3211, K.S.A. 21-3212, K.S.A. 21-3213, K.S.A. 21-3215, or K.S.A. 21-3216.

Unlawful discharge of firearms is a Class B violation.

- c. §10.6 of the Uniform Public Offense Code is hereby amended to read as follows:

#### 10.6 AIR GUN, AIR RIFLE, BOW AND ARROW, SLINGSHOT, BB GUN, OR PAINT BALL GUN.

(a) Except as otherwise provided in this section, it shall be unlawful to shoot, discharge or operate any air gun, air rifle, bow and arrow, slingshot, BB or paint ball gun within the city.

(b) It is unlawful for any person, other than law enforcement or animal control officer, to discharge or fire an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape, or within or upon a property or facility licensed by the City for that purpose; or to carry any such weapon on the streets, alleys or public places in the city unless the same is dismantled or in a scabbard.

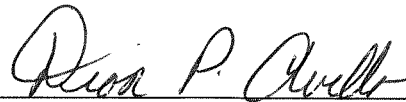
(c) The chief of police may authorize, in writing, any charitable or educational organization to conduct training and instruction in the safe use of air guns, air rifles, bows and arrows, slingshots, BB guns or paint ball gun, including training in the shooting or discharge of the same, when he or she finds that such training and instruction will be conducted under the supervision of qualified instructors, that the site of such training and instruction does not pose a danger to the public, and the organization proposing to conduct such training and instruction has procured insurance coverage of a type and amount deemed adequate by the city attorney.

(d) Violation of this section is a class C offense.

**Section 2.** Original Chapter 9.01 of the Derby Municipal Code is hereby repealed.


**Section 3.** This Ordinance shall be effective from and after its publication once in the official City newspaper.

**ADOPTED BY THE GOVERNING BODY** this 22nd day of December, 2009.

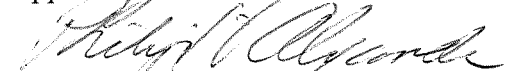


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Dion P. Avello, Mayor

ATTEST:

  
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Jean Epperson, City Clerk

Approved as to form:

  
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Philip H. Alexander, City Attorney