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OPINION COMMITTEE

RQ-D378-GA

The Honorable Greg Abbott
Texas Attorney General
Attn: Open Records Division
P.O. Box 12548
Austin, Texas 78711-2448

FILE # ML-44334-05
I.D. # 44334

Re: Request for opinion concerning imposition of hunting regulations on newly Annexed areas

Dear General Abbott:

On June 1, 2005 the City of Copperas Cove annexed 1980.81 acres. Controversy has arisen concerning the City's imposition of hunting regulations on these newly annexed areas.

S.B. No. 734 states:SECTION 2. Section 251.005, Agriculture Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) A governmental requirement of a city does not apply to any agricultural operation situated outside the corporate boundaries of the city on the effective date of this chapter. If an agricultural operation so situated is subsequently annexed or otherwise brought within the corporate boundaries of the city, the governmental requirements of the city do not apply to the agricultural operation unless the requirement is reasonably necessary to protect persons who reside in the immediate vicinity or persons on public property in the immediate vicinity of the agricultural operation from the danger of:

(2) discharge of firearms or other weapons, subject to the restrictions in Section 229.002, Local Government Code.

(c-1) A governmental requirement may be imposed under Subsection (c) only after the governing body of the city makes findings by resolution that the requirement is necessary to protect public health.

(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.

Sec. 229.002. REGULATION OF DISCHARGE OF WEAPON. A municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, if the firearm or other weapon is:

- (1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged.
 - (A) on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and
 - (B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or
- (2) a center fire or rim fire rifle or pistol of any caliber discharged:
 - (A) on a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and
 - (B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.”

Section 3-30 of the Copperas Cove Code of Ordinances states:

“(a) Prohibited. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob any bird of wild fowl nests.

We are requesting an opinion on whether the City can impose the hunting regulations contained in the City’s Code of Ordinances on the newly annexed areas.

Do not hesitate to contact our office if you have any questions or require additional information.

Sincerely,



Brandon S. Belt
County Attorney

BSB/rm