



Legislation Details (With Text)

File #: 1468-2011 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 9/8/2011 **In control:** Rules & Reference Committee

On agenda: 9/26/2011 **Final action:** 9/27/2011

Title: To repeal Chapter 545 and amend various sections of the Columbus City Codes, 1959, in order to conform city ordinances with current state law in the area of weapons control.

Sponsors: Michelle M. Mills

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
9/27/2011	1	MAYOR	Signed	
9/27/2011	1	CITY CLERK	Attest	
9/26/2011	1	COUNCIL PRESIDENT	Signed	
9/26/2011	1	Columbus City Council	Approved	Pass
9/19/2011	1	Columbus City Council	Read for the First Time	

This ordinance repeals Chapter 545 and amends various sections of the Columbus City Codes, 1959, as a result of changes to the Ohio Revised Code in 2006 which provided that municipalities could not pass stricter gun restrictions than those contained in the Ohio Revised Code. In 2010, the Ohio Supreme Court upheld the actions of the Ohio legislature in *Cleveland v. State*, 2010-Ohio-6318, finding that municipalities could not use home rule as a basis to prohibit or otherwise regulate the possession of firearms. Because of the changes to state law and the possibility of lawsuits generated by having ordinances in effect that contravene the ruling by the Ohio Supreme Court, it is necessary to reconcile city ordinances with state law by repealing and amending various provisions in the City Code.

To repeal Chapter 545 and amend various sections of the Columbus City Codes, 1959, in order to conform city ordinances with current state law in the area of weapons control.

WHEREAS, in 2006 the Ohio legislature passed a statewide uniform gun law which provided that municipalities could not pass stricter gun restrictions than those contained in the Ohio Revised Code; and

WHEREAS, in 2010 the Ohio Supreme Court ruled that it was not a violation of Ohio's home rule provisions for the state to prohibit municipalities from enacting its own ordinances pertaining to gun possession and sale that deviate from the Ohio Revised Code; and

WHEREAS, it is necessary to reconcile city ordinances with state law in order to comply with the mandate of the Ohio Supreme Court; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:

Section 1. That Chapter 545 of the Columbus City Codes, 1959, is hereby repealed in its entirety.

Section 2. That Sections 921.69, 2323.11, 2323.12, 2323.15, 2323.16, 2323.21, 2323.31, and 2323.32 of the Columbus City Codes, 1959, are hereby repealed.

Section 3. That Section 2323.19 of the Columbus City Codes, 1959, is hereby amended to read as follows:

2323.19 -- Failure to secure dangerous ordnance

(A) No person, in acquiring, possessing, carrying, or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or against its acquisition or use by ~~an~~ any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

(B) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree.

(C) As used in this section, dangerous ordnance has the same meaning as used in ~~Section 2923.11 of the Revised Code~~ Section 2534.01 of the Columbus City Code.

Section 4. That Section 2323.20 of the Columbus City Codes, 1959, is hereby amended to read as follows:

2323.20 - Unlawful transactions in weapons; failure to report loss.

(A) No person shall manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon.

~~(1) Knowingly exhibit for sale in a show window any firearm.~~

~~(2) Sell a firearm to another person unless a permit has been issued pursuant to Chapter 545 of the Columbus City Codes.~~

~~(4)(B) No person shall knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm dangerous ordnance in such person's possession or under his control.~~

~~(B) The safety director shall have the power to promulgate rules and regulations, including permit fees, regarding application for, and issuance of, firearm purchase permits.~~

~~(C) This section does not apply to transactions involving firearms defined as antiques, curios, or collectibles.~~

~~(D)(C) Whoever violates any provision subsection (A) of this section is guilty of unlawful transactions in weapons, a misdemeanor of the second degree. Violation of subsection (A)(1) or (A)(4) of this section is a misdemeanor of the fourth degree. Violation of subsection (A)(3) of this section is misdemeanor of the second degree. Violation of subsection (A)(2) of this section is a misdemeanor of the first degree. Whoever violates subsection (B) of this section is guilty of failure to report loss of dangerous ordnance, a misdemeanor of the fourth degree.~~

Section 5. That Section 2323.30 of the Columbus City Codes, 1959, is hereby amended to read as follows:

2323.30 - Discharging weapons.

(A) No person shall discharge or cause to be discharged any firearm, airgun or other instrument used to explode any cartridge or thing filled with any explosive substance or material. For purposes of this section, firearm has the same

meaning as used in Section 2923.11(B) of the Ohio Revised Code.

(B) This section shall not apply to:

(1) Devices in which paper caps containing twenty-five hundredths (0.25) grains or less of explosive compound are used, (providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion), and toy pistol paper caps which contain less than twenty hundredths (0.20) grains of explosive mixture;

(2) A law enforcement officer in the lawful performance of the officer's his duties;

(3) Discharge of a weapon when acting in self-defense or defense of another, including as provided in Section 2901.05(B) of the Ohio Revised Code;

(4) Situations in which the firearm was discharged or was on or about the person or under the control of a person in the commission of a felony for which the Revised Code requires a term of ~~actual incarceration of three (3) years and an indefinite term of imprisonment pursuant to Section 2929.71(B) 2929.14(D)~~ of the Revised Code;

(5) ~~The holder of a permit issued by the Director of Public Safety.~~

(D) Whoever violates this section is guilty of discharging weapons, a misdemeanor of the third degree.

(E) Strict liability is intended to be imposed for violation of this section.

Section 6. That Section 2534.01 of the Columbus City Codes, 1959, is hereby amended to read as follows:

2534.01 - Definitions.

As used in this chapter:

(A) "Owner" means a person who holds legal title to any dangerous ordnance located within the city of Columbus.

(B) "Blaster" means every person who comes into physical contact with or is in actual physical control of any dangerous ordnance located within the city of Columbus.

(C) "Person" means every natural person, firm, partnership, association or corporation.

(D) "Director" means the Director of Public Safety of the city of Columbus.

(E) "Dangerous Ordnance" means any of the following, except as provided in Division (f) of this Section:

~~(1) Any automatic or sawed-off firearm, or zip-gun;~~

(2)(1) Any explosive device or incendiary device;

(3)(2) Nitroglycerin, nitrocellulose, nitrostarch, PETN cyclonite, TNT, picric acid, and other high explosives; anadol, tritonal, tetrytol, pentolite, pecretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;

(4)(3) Any ~~firearm~~, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes and the ammunition therefor.

(F)"Dangerous Ordnance" does not include any of the following:

~~(1)Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder.~~

~~(2)Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;~~

~~(3)(1)Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;~~

~~(4)(2)Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in Division (f)(3) of this Section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder;~~

~~(5)(3)Dangerous ordnance which is inoperable or deactivated, and which is kept as a trophy, souvenir, curio, or museum piece.~~

~~(6)(4)Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.~~

Section 7. That existing Sections 2323.19, 2323.20, 2323.30, and 2534.01 of the Columbus City Codes, 1959, are hereby repealed.

Section 8. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.