



Agenda Report 2014-08-11-02

Date: July 31, 2014

To: John Kovash, Mayor
Members, West Linn City Council

From: Megan Thornton, Assistant City Attorney

Through: Kirsten Wyatt, Assistant City Manager *KW*

Subject: Ordinance Restricting Firearms and Dangerous Weapons in City Buildings

Purpose

This Ordinance intends to protect citizens and city staff by prohibiting individuals from entering city buildings with loaded firearms, unloaded firearms or dangerous weapons, unless the individual falls within one of the specifically recognized exceptions.

Question(s) for Council:

Does the Council wish to prohibit dangerous weapons and firearms in City Buildings?

Public Hearing Required:

None required.

Background & Discussion:

Generally, State law regulates the possession and use of firearms. However, State law allows cities to regulate loaded and unloaded firearms in city buildings. In November 2013, the Municipal Court Judge enacted an Order prohibiting weapons in West Linn Municipal Court and authorizing administrative searches to gain entry to the court in order to ensure the safety of the litigants, court personnel, witnesses and the public. The West Linn Municipal Court also serves as the City Council Chambers.

The adoption of this Ordinance provides a uniform prohibition against weapons and firearms in all city buildings, and authorizes an administrative search process in order to protect the safety of the public and city staff. However, it is important to note that there are exceptions under Oregon law regarding who can be prohibited from carrying firearms and weapons. For that reason the Ordinance exempts police officers, concealed weapons licensees, and others from the prohibition in the Ordinance.

Related City Policies

City Charter Chapter VIII, Ordinances: ordinance adoption process.

Budget Impact:

None.

Council Options:

1. Move to approve First Reading and set the matter for Second Reading.
2. Move to approve First Reading, and if unanimous, move to approve Second Reading and adopt the ordinance.
3. Postpone consideration of the proposed ordinance.

Staff Recommendation:

Staff recommends adoption of “An Ordinance Prohibiting Firearms and Dangerous Weapons in City Buildings.”

Potential Motion:

Council: *Move to approve First Reading of “An Ordinance Prohibiting Firearms and Dangerous Weapons in City Buildings,” and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for “An Ordinance Prohibiting Firearms and Dangerous Weapons in City Buildings,” and adopt the ordinance.*

Attachments:

1. Ordinance 1628

ORDINANCE NO. 1628

AN ORDINANCE PROHIBITING FIREARMS AND DANGEROUS WEAPONS IN CITY BUILDINGS

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold~~ lined through and additions are **bold underlined**.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers; and

WHEREAS, the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

WHEREAS, the City desires to protect the public and City personnel from the unauthorized use of firearms and dangerous weapons at public meetings and in City buildings; and

WHEREAS, the City wishes to institute an administrative search procedure to ensure the safety of those attending public meetings and compliance with the City's firearms and weapons prohibition; and

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. New Sections. West Linn Municipal Code Sections 2.660 [Purpose] through 2.675 [Administrative Search] are added to read as follows:

2.660 Purpose.

The purpose of the following provisions is to ensure the safety of the public and City personnel. ORS 166.170 expressly vests the power to regulate firearms to the State's Legislature; therefore, nothing in these sections shall be construed as an attempt to regulate firearms in contradiction with State or Federal law. The Council intends Sections 2.660 to 2.675 to supplement and be uniformly interpreted with the laws and regulations of the United States and the State, to avoid infringing on a citizen's Constitutional right to bear arms for purposes limited to self-defense.

2.665 Definitions.

As used in Sections 2.660 to 2.675, except where the context clearly indicates a different meaning, the following words mean:

- (1) Dangerous weapon. Any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury and includes but is not limited to:
 - (a) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument, a knife other than an ordinary pocketknife, the use of which could inflict injury upon a person or property;
 - (b) Mace, tear gas, pepper mace or any similar deleterious agent;
 - (c) An electric stun gun or any similar instrument;
 - (d) An tear gas weapon; or
 - (e) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any similar instrument, the use of which could inflict injury upon a person or property.
- (2) Firearm. A pistol, revolver, gun, rifle, miniature weapon or other mechanism which projects a missile or shot by force of gunpowder or any other explosive, or by spring or by compressed air.
- (3) Peace officer. A member of the Oregon State Police, marshal service, reserve officer, or as otherwise defined by ORS 133.005(3).
- (4) City building. Any city-owned or controlled building, including but not limited to the public library, police department building, public works building, adult community center, City Hall, the portion of any other buildings occupied by a department of the City of West Linn, and the grounds adjacent to each building.

2.670 Firearms and Dangerous Weapons Prohibited.

- (1) It is unlawful for any person to knowingly possess, whether concealed or unconcealed, a loaded or unloaded firearm or dangerous weapon of any kind in a City building.
- (2) Subsection (1) of this Section does not apply to or affect:
 - (a) A West Linn Police Officer, sheriff, peace officer, or a corrections officer while acting within the scope of employment.
 - (b) A person summoned by a West Linn Police Officer or peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

- (c) An active or reserve member of the military forces of Oregon or the United States, when engaged in the performance of duty.
- (d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.
- (e) A person who is authorized by the City of West Linn to possess a firearm or dangerous weapon in City Hall or a public building.
- (f) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

2.675 Administrative Search.

- (1) Any person entering a City building may be subject to an administrative search which may include metal detectors and consent searches.
- (2) The West Linn Police Department, security guard, or any other peace officer, shall enforce the prohibition on firearms and dangerous weapons, in ORS 166.370, and the provisions of Section 2.670 by every lawful means, including but not limited to:
 - (a) lawful searches of an individual's person;
 - (b) lawful searches of carried items;
 - (c) examination of any lawfully carried firearm, pursuant to ORS 166.380; and
 - (d) seizure of any proscribed item.
- (3) Refusal of a person to submit to an administrative search shall require the immediate removal of the person from the City building. Refusal to leave when requested by law enforcement or city personnel shall be considered trespass.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **2-3**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 4. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII,

Section 2(C) of the City Charter on the 11th day of August, 2014, and duly PASSED and ADOPTED this _____ day of _____, 2014.

JOHN KOVASH, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY