

ORDINANCE NO.: 67 -2019
INTRODUCED BY: Mayor Roche

AN ORDINANCE AMENDING SECTIONS 549.01, 549.02, 549.07, 549.12, AND 549.14 OF CHAPTER 549, "WEAPONS AND EXPLOSIVES," OF THE CODIFIED ORDINANCES TO CONFORM TO STATE LAW, AND DECLARING AN EMERGENCY.

WHEREAS, Amended Substitute House Bill Number 228 (Am. Sub. H.B. 228) was passed by the General Assembly, signed into law by the governor, and becomes effective on March 28, 2018;

WHEREAS, Am. Sub. H.B. 228 amended multiple sections in the Ohio Revised Code with respect to rights of gun owners, conceal carry, self-defense, and other matters;

WHEREAS, Am. Sub. H.B. 228 preempts any local ordinance that further restricts a person's right to own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm;

WHEREAS, Chapter 549, "Weapons and Explosives," must be amended to conform to the amendments contained in Am. Sub. H.B. 228; and

WHEREAS, this Council desires to amend Sections 549.01, 549.02, 549.07, 549.12, and 549.14 of Chapter 549, "Weapons and Explosives," of the Codified Ordinances as set forth in this Ordinance. .

NOW, THEREFORE, BE IT ORDAINED by the Council of the city of Richmond Heights, Cuyahoga County, State of Ohio, that:

Section 1. Section 549.01, "Definitions," of the City's Codified Ordinances is amended as follows:

"549.01 DEFINITIONS.

As used in this chapter:

* * *

(f) "Shotgun" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

* * *

(k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:

* * *

(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

* * *

(s)(1) "Law enforcement officer" means any of the following who is employed, commissioned, disposed, appointed, or elected in a capacity, a political subdivision of this state, or an agency, department, or instrumentality of this state or a political subdivision of this state:

- A. Any law enforcement officer, as defined in section 2901.01 of the Revised Code;
- B. Any peace officer, as defined in section 2935.01 of the Revised Code;
- C. Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code.

(2) For purposes of the Revised Code, both of the following apply regarding a law enforcement officer who, by virtue of the officer's employment, commissioning, disposition, appointment, or election as that law enforcement officer, has a responsibility to enforce all or certain laws:

- A. The officer holds public office on a continuing basis and has a continuing duty to enforce those laws.
- B. The officer is always on duty, regardless of whether the officer is, or is not, officially within work hours or officially on the clock. (ORC 9.69.)

Section 2. Section 549.01, "Definitions," of the City's Codified Ordinances as it existed prior to the effective date of this Ordinance is repealed.

Section 3. Section 549.02, "Carrying Concealed Weapons," of the City's Codified Ordinances is amended as follows:

"549.02 CARRYING CONCEALED WEAPONS.

(h) Each person, board, or entity that owns or controls any place or premises

identified in division (B) of section 2923.126 of the Revised Code as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."

Section 4. Section 549.02, "Carrying Concealed Weapons," of the City's Codified Ordinances as it existed prior to the effective date of this Ordinance is repealed.

Section 5. Section 549.07, "Unlawful Transactions in Firearms," of the City's Codified Ordinances is amended as follows:

"549.07 UNLAWFUL TRANSACTIONS IN WEAPONS.

- (a) No person shall do any of the following:
 - (1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance;
 - (2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (a) of this section;
 - (3) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;
 - (4) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;
 - (5) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;
 - (6) 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;

(2)(7) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him the transferee to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(3)(8) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (a)(3), (4), and (5) of this section do not apply to any of the following:

- (1) A law enforcement officer who is acting within the scope of the officer's duties;
- (2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section .

(b)(c) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. A violation of division (a)(1) or (2) of this section is a felony of the fourth degree. A violation of division (a)(3), (4), or (5) of this section is a felony of the third degree. A violation of division (a)(3) (6) or (4) (7) of this section is a misdemeanor of the second degree. A violation of division (a)(5) (8) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.
- (2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.
- (3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer."

Section 6. Section 549.07, "Unlawful Transactions in Firearms," of the City's Codified Ordinance as it existed prior to the effective date of this Ordinance is repealed.

Section 7. Section 549.12, "Discharging Firearms" of the City's Codified Ordinances is amended as follows:

“549.12

DISCHARGING FIREARMS.

* * *

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(1) A person is allowed to act in self-defense, defense of another, or defense of that person's residence. If, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence, as the case may be.

* * *"

Section 8. Section 549.12, "Discharging Firearms," of the City's Codified Ordinances as it existed prior to the effective date of this Ordinance is repealed.

Section 9. Section 549.14, "Registration to Carry Handgun," of the City's Codified Ordinances is amended as follows:

549.14 REGISTRATION TO CARRY HANDGUN.

(a) ~~No private investigator, private policeman, watchman, guard, security person or private detective who intends to be armed while on duty or performing his authorized services shall knowingly carry or have on his person or ready at hand any handgun within the City of Richmond Heights unless such person has registered the firearm in accordance with the provisions of this section.~~

~~This section does not apply to law enforcement officers of any political subdivision of the State or Ohio which officers are authorized to carry concealed weapons or dangerous ordnance and are acting within the scope of their duties.~~

~~This section further does not permit what otherwise constitutes a violation of any law or ordinance concerning the carrying of handguns.~~

(b) ~~Registration to carry a handgun in the City shall be made in writing by any individual desiring to carry such handgun within the City. The registration shall be made in writing under oath to the Chief of Police and shall be accompanied by a nonrefundable registration fee of twenty five dollars (\$25.00). The fee shall be paid into the General Fund of the Municipality to cover the administrative costs of issuing a registration under this section. With the registration form, there shall be submitted the following items:~~

- ~~(1) A valid registration card with photograph of the applicant;~~
- ~~(2) Proof of proper ownership and registration of the handgun;~~
- ~~(3) Proof of successfully completion by the registrant of the firearms training provisions of Ohio R.C. Chapter 109; and~~
- ~~(4) Proof of registrant's engagement in an occupation by virtue of which he or she has a peculiar need to carry a handgun.~~

—(c) The registration form shall contain the following information and may, in the discretion of the Chief of Police, include a demonstration by the registrant of competence in the use of such handgun:

- (1) The name, age, address, occupation and business address of the registrant;
- (2) A description of the handgun for which a permit is requested;
- (3) A description of the place or places where the manner in which the handgun is to be kept, carried, and used;
- (4) A statement of the purposes for which the handgun is to be acquired, possessed, carried or used; and
- (5) Such other information as the Chief of Police may require in giving effect to this section.

—(d) Registration pursuant to this section shall become null and void unless, upon investigation, the Chief of Police or his authorized agent shall find that all of the following apply:

- (1) The registrant is not otherwise prohibited by law from acquiring, having, carrying, or using a handgun;
- (2) The registrant is age 21 or over;
- (3) It appears that the registrant has sufficient competence to safely acquire, possess, carry or use the handgun, and that proper precautions will be taken to protect the security of the handgun and ensure the safety of persons and property; and
- (4) It appears that the handgun will be lawfully acquired, possessed, carried and used by the registrant for a legitimate purpose.

When a registrant satisfies the above listed criteria, the Chief of Police or his authorized agent shall issue a copy of the registration form to the registrant within not more than sixty days from the date of completion of the registration form and submission requirements. A copy of such registration shall be retained by the Chief in a permanent confidential file. Registration pursuant to this section shall expire on the holder's third birthday after the date of registration and is void at any time prior to such date upon the holder's violating any of the provisions of this section.

—(e) The registration shall be in such form as prescribed by the Chief of Police and shall bear the date of issue, the date of expiration, the name of the Chief, the registrant's name, home address, date of birth, physical description, full face color photograph, thumb print, social security number, and signature of the registrant.

—(f) No person shall knowingly give false information in registering to carry a handgun and no person shall use or have in his possession a registration form issued to another.

—(g) No person shall knowingly allow the use of his registration to carry a handgun by any other person for any reason. Registration shall not be assignable or transferable.

—(h) Registration to carry a handgun shall become null and void if the registrant becomes one of the following class of persons:

- (1) A person now or hereafter prohibited by Ohio R.C. 2923.13 from purchasing, owning, possessing, receiving, having on or about his person, or using any handgun or ammunition;
- (2) A minor;
- (3) A person who has been adjudicated for mental incompetence or a person who has been committed to a mental institution or has received hospital treatment for any mental disorder, alcoholism or a narcotic addiction within the previous ten years, unless a physician indicates in writing that such person is completely recovered and of sufficient mental capacity to own or possess a handgun;

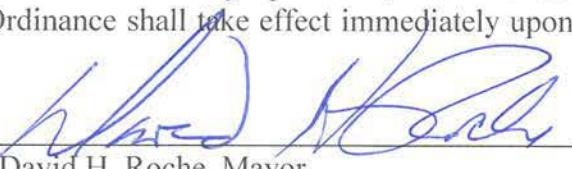
- (4) A person convicted of an illegal use or possession of narcotics;
- (5) A person with more than one conviction of being drunk and disorderly or driving a motor vehicle while intoxicated either of which occurred within one year of the date of application;
- (6) A person who is under indictment for, or who has been convicted, or who has been adjudged a juvenile delinquent for commission of, any felony; or
- (7) Any person with more than one conviction of a misdemeanor involving the use of force and violence against the person of another within three years prior to his application for registration under the terms of this section.
- (h) Nothing in this section shall make lawful the acquisition or possession of handgun ammunition which is otherwise prohibited by law.
- (i) Whoever violates this section is guilty of a misdemeanor of the first degree.”

Section 10. Section 549.14, “Registration to Carry Handgun,” of the City’s Codified Ordinances is repealed in its entirety.

Section 11. It is found and determined that all formal actions of this Council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 12. That this Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety, such necessity existing by reason of the fact that the foregoing amendments to the Codified Ordinances must be adopted immediately so as to comport with the law, to facilitate administration and daily operations, and to avoid practical and legal entanglements; wherefore, this Ordinance shall take effect immediately upon its passage and approval by the Mayor.

PASSED: June 25, 2019



David H. Roche, Mayor

APPROVED: June 25, 2019

ATTEST: Rachel E. S.
Betsy Graben Rachel Gardiner
Clerk of Council, pro-tem



Eloise Cotton-Henry
President of Council