

5/24/2005

42-O-05

AN ORDINANCE

Amending Title 9, Chapter 8 of the City Code,  
"Weapons"

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That Title 9, Chapter 8 of the City Code of the City of Evanston, 1979, as amended, be and it hereby is further amended, to read as follows:

**9-8-1: DEFINITIONS:**

**AMMUNITION:** Any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

- (A) Any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required by the United States Coast Guard or the Interstate Commerce Commission; or
- (B) Any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.
- (C) Any blank ammunition specifically designed to simulate gunfire without expelling a projectile where used for sporting or theatrical events.

**ANTIQUA HANDGUN:**

- (A) Any handgun (including any handgun with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured on or before 1898; and

(B) Any replica of any handgun described in subsection (A) of this definition if such replica is not designed or redesigned for using ammunition.

**CURIO OR RELIC HANDGUNS:** Any handgun which, as defined by 18 USC 921, as amended, by reason of its date of manufacture, value, design and/or other characteristics is primarily a collector's item and is not likely to be used as a weapon.

**FIREARM:** Any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

(A) Any pneumatic gun, spring gun, paint ball gun, or BB gun which expels a single globular projectile not exceeding 0.18 inches in diameter which has a maximum muzzle velocity of less than seven hundred feet (700') per second or breakable paint balls containing washable marking colors.

(B) Any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission.

(C) Any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition.

(D) An antique firearm (other than a machine gun) which, although designed as a weapon, the Illinois State Police finds by reason of the date of its manufacture, value, design and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(E) Model rockets designed to propel a model vehicle in a vertical position.

**FIREARM DEALER:** Any person engaged in the business of sale or other transfer of firearms, handguns or ammunition at wholesale or retail including any person who is a pawnbroker.

**HANDGUN:** Any firearm which (a) is designed or redesigned or made or remade, and intended to be fired while held in one hand or (b) having a barrel of less than ten inches (10") in length or (c) a firearm of a size which may be concealed upon the person.

**LICENSED FIREARM COLLECTOR:** Any person licensed as a collector by the Secretary of the Treasury of the United States under and by virtue of Title 18, United States Code, Section 923.

**PEACE OFFICER:** “Peace Officer” means any person who by virtue of his or her office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

**PERSON:** Any individual, corporation, company, association, firm, partnership, club, society, organization, or joint stock company.

**SALE OR OTHER TRANSFER:** Any sale, gift, exchange, loan, rental or other transfer of firearms, handguns or ammunition but not including any of the following:

- (A) Acquisition of a handgun or ammunition or both as the executor, administrator or other legal representative of a decedent’s estate; or
- (B) Transfer of a handgun or ammunition or both by bequest or intestate succession; or
- (C) Acquisition or transfer of a handgun or ammunition or both by a trustee in bankruptcy in the administration of a bankrupt’s estate; or
- (D) Return of a handgun or ammunition or both to a person, firm or corporation from whom it was received; or
- (E) Transfer of a handgun or ammunition or both where it is required by or in accordance with a judgment or decree of any court of lawful jurisdiction; or
- (F) Transfer of a handgun or ammunition or both to any Federal, State or local government, or any department, agency, bureau, institution or commission thereof; or
- (G) Transfer of a handgun or ammunition or both to a private museum, society, institution or other private organization which customarily acquires and holds handguns as curios and relics or for scientific or research purposes; or to theatrical organizations providing a regular performance schedule to the public and utilizing said handguns only pursuant to Section 9-8-4(B)(1).

**9-8-2: POSSESSION:**

No person shall possess, in the City of Evanston any handgun, unless the same has been rendered permanently inoperative.

**9-8-3: FIREARM DEALERS PROHIBITED:**

No person, firm or corporation shall engage in the business of a dealer in firearms or handguns or ammunition in the City, including exchange, loan, rental or other transfer for consideration.

**9-8-4: DISCHARGE OF FIREARMS:**

(A) No person shall fire or discharge without legal justification under the laws of the State of Illinois any firearm or antique firearms within the corporate limits of the City.

(B) Exempt from Section 9-8-4(A) are:

1) Members of established theater organizations located in Evanston and performing a regular performance schedule to the public who utilize firearms only during rehearsals, classes or performances with only blank firearms or ammunition pursuant to Section 9-8-5(A)(12).

2) Members of established film production organizations having prior written approval from the City Manager or his or her designee to conduct their activities in the City, during the period of such approval pursuant to Section 9-8-5(A)(13).

3) Persons utilizing a "starter" handgun solely capable of firing blank ammunition during an athletic event sponsored by a publicly- or privately-owned educational institution located in Evanston pursuant to Section 9-8-5(A)(15).

**9-8-5: GENERAL EXEMPTIONS:**

(A) Section 9-8-2 shall not apply to or affect the following:

1) Peace officers.

2) Persons, who in the performance of their official duties as defined by Illinois or Federal law or Evanston ordinance are required to carry handguns.

3) Retired peace officers in compliance with the requirements of the "Law Enforcement Officers Safety Act" of 2004, 18 USC 926(c), as amended.

4) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

5) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duties.

6) Any person summoned by any peace officer to assist in making arrests or preserving the peace while that person is actually engaged in assisting such officer and if such handgun was provided by the peace officer or was otherwise legally possessed under this Chapter.

7) Special agents employed by a railroad or a public utility to perform police functions; guards of armored car companies, watchmen while actually engaged in the performance of their duties of employment and security guards actually and regularly employed in commercial or industrial operation for the protection of persons employed and private property related to such commercial or industrial operation, provided said security guards are in compliance with 720 ILCS 5/24-2(a)(6), as amended, relating to registration, training, and other requirements imposed by the Illinois Department of Professional Regulation, while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment.

8) Agents and investigators of the Illinois Legislative Investigating Commission authorized by the Commission to carry handguns.

9) Gun collectors, licensed by the Bureau of Alcohol, Tobacco and Firearms within the confines of their permanent residence.

10) A person who possesses an antique handgun within the confines of their permanent residence.

11) Transportation of handguns by those persons authorized under subparagraphs 9, 10, 12, 13, 14, and 15 of this Section to possess handguns, if the handguns are unloaded and broken down in a nonfunctioning state or unloaded and not immediately accessible.

12) An established theater, provided it maintains possession and control of handguns in a safe place, under control of the designated armorer, at all times when they are not being used for rehearsals, performances, or class purposes on the theater premises; and members of theatrical casts and crews while such persons are using said handgun on the theater premises.

13) An established film production organization, provided it has prior written approval from the City Manager or his or her designee to conduct its activities in the City, and provided that the use of the handgun was disclosed in the request for approval, and is used in accordance with any requirements

imposed in the approval including, but not limited, to maintaining possession and control in a safe place under control of the designated armorer at all times when not in use for rehearsals of filming.

14) Persons who acquire handguns through the passing or transfer of any handgun or ammunition upon the death of the owner thereof to his heir or legatee, or through the passing or transfer of any handgun or ammunition incident to a legal proceeding or action, until after sixty (60) days after such passing or transfer.

15) Persons utilizing a “starter” handgun solely capable of firing blank ammunition during an athletic event sponsored by a publicly- or privately-owned educational institution located in Evanston.

(B) To qualify for the exemptions of 9-8-5(A), 9, 10, 12, and 13, persons so defined shall be registered with, and approved by, the Evanston Police Department.

**9-8-6: PENALTY:**

(A) Any person violating Section 9-8-2 of this Chapter shall be guilty of a misdemeanor and shall be fined not less than fifteen hundred and no/100 dollars (\$1,500.00) and/or incarcerated for up to six (6) months for each offense.

(B) Upon a finding of a violation of Section 9-8-2 of this Chapter, any handgun seized shall be confiscated by the trial court and when no longer needed for evidentiary purposes, the court shall transfer such weapon to the City Police Department who shall destroy them.

(C) Any person violating any provision of the provisions of this Chapter for which a penalty is not provided for shall be fined \$750.00 (seven hundred fifty and no/100 dollars).

**9-8-7: VOLUNTARY DELIVERY TO POLICE DEPARTMENT:**

(A) If a person voluntarily and personally delivers and abandons to the Evanston Police Department any handgun, such delivery shall preclude the arrest and prosecution of such person on a charge of violating any provision of this chapter with respect to the handgun voluntarily delivered. Delivery under this section shall be made by summoning a police officer. Every weapon to be delivered and abandoned to the Police Department under this subsection shall be unloaded and in open view. No person who delivers and abandons a handgun under this section shall be required to furnish identification,

photographs or fingerprints. No amount of money shall be paid for any handgun delivered or abandoned under this subsection.

(B) Whenever any handgun is surrendered under this Section, the Police Department shall determine whether such handgun is needed as evidence or warrants further investigation and if the same is not needed as evidence, it shall be destroyed. (Ord. 22-0-82).

#### **9-8-8: GUN BUY-BACK PROGRAM:**

Notwithstanding anything to the contrary in this Chapter or this Code, the Police Department may conduct a "gun buy-back program" pursuant to authorization of the City Council whereby, in exchange for appropriate consideration, persons may voluntarily surrender any handgun. A person voluntarily delivering and abandoning a handgun to the Evanston Police Department pursuant to a gun buy-back program authorized by the City Council shall deliver the handgun in the manner provided for in subsection 9-8-7(A) of this Chapter and shall be afforded the protections provided for therein. (Ord. 86-0-00).

#### **9-8-9: DISPOSITION OF HANDGUNS:**

(A) All handguns ordered confiscated by the court under the provisions of Subsection 9-8-6(B) of this chapter and all handguns received by the Evanston Police Department under and by virtue of section 9-8-7(A) and 9-8-8 of this Chapter, shall be held and identified as to owner, where possible, by the Evanston Police Department, for a minimum of two (2) years prior to their being destroyed. (Ord. 22-0-82; amd. Ord. 86-0-00).

#### **9-8-10: CONSTRUCTION:**

Nothing in this chapter shall be construed or applied to necessarily require or excuse noncompliance with any provision of the laws of the state of Illinois or to the laws of the United States. This chapter and the penalties prescribed for violation hereof, shall not supersede, but shall supplement all statutes of the state of Illinois or of the United States in which similar conduct may be prohibited or regulated. (Ord. 22-0-82; amd. Ord. 86-0-00).

#### **9-8-11: RULES AND REGULATIONS:**

The Evanston Chief of Police shall have the authority to promulgate rules, procedures, and regulations to enforce the provisions of this chapter. (Ord. 22-0-82; amd. Ord. 86-0-00).

**9-8-13 FEES:** The Evanston Police Department shall assess a processing fee of fifty and no/100 dollars (\$50.00) for each exemption application.

**9-8-13: SEVERABILITY:**

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter and the applicability of such provision to any other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 22-0-82; amd. Ord. 86-0-00).

**SECTION 2:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: \_\_\_\_\_, 2005

Adopted: \_\_\_\_\_, 2005

Approved:

\_\_\_\_\_, 2005

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Lorraine H. Morton, Mayor

Attest:

\_\_\_\_\_  
Mary P. Morris, City Clerk

Approved as to form:

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Corporation Counsel