

CHARTER AND CODE OF THE CITY OF BUFFALO, NEW YORK

Updated 3-5-2003

PART II GENERAL LEGISLATION

Chapter 180, FIREARMS, ARROWS AND OTHER WEAPONS

ARTICLE I, Firearms and Arrows

§ 180-1. Firearms, shotguns, rifles and other dangerous weapons.

AMMUNITION -- Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

AMMUNITION-FEEDING DEVICE -- Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun, holds in excess of five cartridges, or in the case of a pistol holds in excess of 17 cartridges.

ASSAULT WEAPON:

(1) Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than six cartridges in the ammunition-feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:

(a) In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than five cartridges; or

(b) In the case of a shotgun, an ammunition-feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than five cartridges.

(2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:

(a) A flash suppressor attached to the weapon reducing muzzle flash;

(b) A grenade launcher;

(c) A sighting device making a target visible at night;

(d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom;
or

(e) A multi-burst trigger activator.

(3) Any stockless pistol grip shotgun.

(4) For purposes of this section, the term "assault weapon" shall not include any of the following:

(a) Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault" weapon.

(5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility.

(6) A person voluntarily surrendering the same in accordance with the provisions of Section 265.20 of the Penal law.

(7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

D. No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the city unless said firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

E. No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the city. This prohibition shall not apply to:

- (1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States.
- (2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States.
- (3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.
- (4) A person disposing of a licensed firearm in accordance with law.
- (5) Disposition by intestate or testamentary bequest.
- (6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

F. No person shall possess an assault weapon or an ammunition-feeding device in the city. This prohibition shall not apply to:

- (1) A police officer or peace officer authorized to possess the same.
- (2) A person in the military service of the State of New York or the United States when duly authorized to possess the same.
- (3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal law.
- 4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the city.

G. No person shall dispose of an assault weapon or ammunition-feeding device in the city. This prohibition shall not apply to:

- (1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.
- (2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police offices or persons in the military service or for delivery outside of the city.

H. No person shall carry a firearm, shotgun, rifle or air gun in the city while such person has 1/10 of 1% or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

I. No person shall carry a firearm, shotgun, rifle or air gun in the city while in an intoxicated condition.

J. No person shall carry a firearm, shotgun, rifle or air gun in the city while the person's ability to safely carry such weapon is impaired by the use of a drug.

K. Any person who carries a firearm, shotgun, rifle or air gun in the city shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefor. A chemical test must be administered within two hours after such person has been placed under arrest for a violation of this section or any other law or ordinance involving the use or possession of a firearm, rifle, shotgun or air gun, or within two hours after a breath test indicates that alcohol has been consumed by such person. Upon the trial of any action arising out of an arrest for a violation of Subsection H, I or J of this section, the court shall admit evidence of the amount of alcohol or drugs in the blood of the person carrying the firearm, shotgun, rifle or air gun as shown by a test administered pursuant to this section. Evidence of a refusal to submit to a chemical test shall be admissible in any trial, proceeding or hearing based upon a violation of such subsections, but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and the person persisted in such refusal.

L. Discharge of weapons; permits.

(1) No person shall discharge an air gun, shotgun, rifle, assault weapon, machine gun, submachine gun or a firearm of any kind or description in the city, except police officers, peace officers, members of the military and persons holding permits as in this subsection provided.

(2) The Commissioner of Police is hereby authorized to grant permits for the discharge of shotguns at clay pigeons at any particular location or for the discharge of weapons at target ranges subject to such restrictions and conditions as the Commissioner may deem necessary. Any person holding such a permit shall obey all the restrictions and conditions contained herein.

M. Penalties for offenses. A violation of any provision of this section shall be punishable by a fine not to exceed \$1,500 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment.

N. The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or invalid, the decision of the court shall not affect or impair any of the remaining provisions of the same. It is hereby declared to be the intention of the Council that this section would have been adopted had such unconstitutional or invalid provision

not been included herein. If any term or provision of this section shall be declared unconstitutional, invalid or ineffective in whole, or in part, by a court of competent jurisdiction, then to the extent that it is not unconstitutional, invalid or ineffective, such term or provision shall be in force and effect, nor shall such determination be deemed to invalidate the remaining terms or provisions thereof.

§ 180-2. Carrying loaded shotgun or rifle; exceptions.

Nothing herein contained shall be construed to prohibit the possession, custody or use of said shotgun or rifle for the lawful purpose of self-defense or the defense of others.

§ 180-3. Sale and use of arrows by children.

A. No person shall offer, sell, loan, lease or give broadhead arrows or broadhead tips, also known as "hunting arrows or tips," to any child under the age of 16 years.

B. The unlawful use of bows and arrows or other archery devices and the unlawful possession by a child under 16 years of age of broadhead arrows or tips is hereby declared a nuisance, and said unlawfully used or possessed archery equipment shall be destroyed as a nuisance in accordance with law.

§ 180-4. Throwing of missiles prohibited; use of designated areas required.

No person shall throw stones, snowballs, missiles or other objects or shoot with or use a bow and arrow or sling or play at ball in a public place or a private place of assemblage except as to such public or private places designated for such use.

ARTICLE II, Open Display or Carrying of Weapons in Certain Public Buildings

§ 180-5. Legislative findings.

The Common Council, in order to assure the proper protection, health, safety and welfare of persons lawfully in the public buildings of the City of Buffalo and in order to ensure the performance of essential governmental functions by city employees without threat or intimidation to such employees or others, finds it to be in the public interest to prohibit the open display or transport of any weapon in certain public buildings of the city.

§ 180-6. Definitions.

When used in this article, the following words and phrases shall have the meanings herein ascribed to them:

OPENLY CARRY OR DISPLAY -- The possession or transport by any person of a weapon, as hereinafter defined, in such a manner that the weapon is visible to persons in the immediate vicinity, except where such possession or transportation is consistent with an authorized activity of function at the specific city building where such possession occurs.

PERSON -- Any person, except a police officer or a peace officer.

PUBLIC BUILDING -- The following buildings, structures or property owned, occupied or operated by the City of Buffalo:

A. City Hall.

B. City Court Building.

C. Dunn Tire Park.

D. Johnnie B. Wiley Sports Pavilion.

E. Kleinhans Music Hall.

WEAPON -- A firearm, electronic dart gun, gravity knife, switchblade knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sandbag, shuriken, sandclub, slingshot dagger, dangerous knife, dirk, razor, stiletto, imitation pistol or any other dangerous or deadly instrument or weapon.

§ 180-7. Prohibited acts.

No person shall openly carry or display a weapon in any public building owned, occupied or operated by the City of Buffalo.

§ 180-8. Surrender and return of weapon.

No person who openly carries or displays a weapon in any public building shall refuse to surrender such weapon at the request of any police officer or peace officer. Any weapon so surrendered shall be returned to such person upon his or her departure from the public building, provided that the possession thereof is lawful.

§ 180-9. Possession of illegal weapons.

Nothing contained in this chapter shall be deemed to authorize the possession of any weapon, the possession of which is made unlawful by any other law, statute, ordinance or resolution.

§ 180-10. Possession of legal weapons.

Nothing contained in this chapter shall be deemed to prohibit the possession of any weapon otherwise lawful under the circumstances herein specified.