

ORDINANCE NO. 2018-79
INTRODUCED BY: COUNCILMEMBERS LANE SCHLESSEL
AND CHARLES LOPRESTI

**AN ORDINANCE AMENDING CHAPTER 672 OF
THE CODIFIED ORDINANCES OF THE CITY
TITLED WEAPONS BY AMENDING SECTIONS
672.01, 672.03 AND 672.09, AND DECLARING AN
EMERGENCY**

WHEREAS, this Council has become aware of certain municipalities which permit weapons, and apparatus which may be used as weapons, to be use for sport; and

WHEREAS, there are certain uses which are not appropriate in the City of Lyndhurst; and

WHEREAS, this Council wishes to address those uses. Now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST,
COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:**

SECTION 1. Section 672.01 of the Codified Ordinances of the City titled "Definitions" is hereby amended to read as follows (new material appears like THIS; deleted material appears like this):

672.01 DEFINITIONS.

As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing WHICH, IN THE OPINION OF THE CITY PROSECUTOR, IS capable of inflicting SERIOUS INJURY OR death, and IS designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon. DEADLY WEAPON INCLUDES BUT IS NOT LIMITED TO A SLINGSHOT, BOW AND ARROW, SWITCHBLADE KNIFE, THROWING KNIFE, TOMAHAWK AND THROWING AXE.

(b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(c) "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in subsection (c) (1) of this section can be assembled.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

(f) "Sawed-off firearm" 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.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol that is not designed as a firearm, but that is specially adapted for use as a firearm;

(3) Any industrial tool, signaling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an

explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

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

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

(2) Any explosive device or incendiary device;

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclitol 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) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;

(5) Any firearm muffler or suppressor;

(6) ANY DEADLY WEAPON AS SET OUT IN SECTION (a), ABOVE;

(7)(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(l) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that 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 for that weapon unless the firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece that, 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) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.

(6) Any device that 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), as amended, and regulations issued under that Act.

(m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable

laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

(n) (1) “Concealed handgun license” or “license to carry a concealed handgun” means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(o) “Valid concealed handgun license” or “valid license to carry a concealed handgun” means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

(p) “Misdemeanor punishable by imprisonment for a term exceeding one year” does not include any of the following:

(1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;

(2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

(q) “Alien registration number” means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien’s permanent resident card and may also be commonly referred to as the “USCIS number” or the “alien number”.

(r) “Active duty” has the same meaning as defined in 10 U.S.C. 101.

SECTION 2. Section 672.03 of the Codified Ordinances of the City titled “Using Weapons While Intoxicated” is hereby amended to read as follows (new material appears like THIS; deleted material appears like ~~this~~):

672.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any DEADLY WEAPON, firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

SECTION 3. Section 672.09 of the Codified Ordinances of the City titled “Pointing and Discharging Firearms and Other Weapons” is hereby amended to read as follows (new material appears like THIS; deleted material appears like ~~this~~):

672.09 POINTING AND DISCHARGING FIREARMS AND OTHER WEAPONS.

(a) Except as provided in divisions (c) and (d) of this section, no person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm, or make use of any sling or SHOT, BOW AND arrow, SWITCHBLADE KNIFE, THROWING KNIFE, TOMAHAWK OR THROWING AXE within the corporate limits of the Municipality.

(b) No person shall, intentionally and without malice, point or aim a firearm at or toward another or discharge a firearm so pointed or aimed.

(c) This section does not extend to cases in which firearms, ~~slings or arrows~~ SLINGSHOTS, BOWS AND ARROWS, SWITCHBLADE KNIVES, THROWING KNIVES, TOMAHAWKS AND THROWING AXES are used in self-defense, in the discharge of official duty or in justifiable homicide.

(d) This section does not extend to cases in which BB guns and other air guns, or ~~slings or arrows~~ SLINGSHOTS, BOWS AND ARROWS, SWITCHBLADE KNIVES, THROWING KNIVES, TOMAHAWKS AND THROWING AXES are used in the confines of dwellings, provided such use is under adult supervision and is approved by the Chief of Police.

(e) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree.

SECTION 4. This Council declares that the various provisions of this Ordinance are severable, and if any word, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or otherwise invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionally or illegality shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 5. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 6. This Ordinance is hereby declared to be an emergency measure necessary to implement the aforesaid sections of the general offenses code in the City immediately and without delay so as to protect the residents of the City. Therefore, this Ordinance shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: November 5, 2018

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on November 15, 2018 and November 22, 2018.

Clerk of Council

First Reading: November 5, 2018

Second Reading: Suspended

Third Reading: Suspended