"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

ORDINANCE NO. 15-0720-01

ORDINANCE TO AMEND SECTION 29-3 OF THE CITY CODE AND TO ADD A NEW SECTION 29-4 REGULATING THE POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, AND EXPLOSIVES IN MUNICIPAL BUILDINGS AND POLICE STATIONS IN THE CITY OF DELAWARE CITY

WHEREAS, by and through adoption of House Bill 192 by the 148th General Assembly of the State of Delaware ("HB192"), codified at Title 22, Section 111 of the Delaware Code, municipalities are permitted to adopt Ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations.

WHEREAS, The Mayor and City Council of Delaware City desire to add a new Section 29-4 of the City Code to prohibit possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations to the fullest extent permitted by HB 192;

WHEREAS, the Mayor and City Council also desire to amend Section 29-3 of the City Code;

WHEREAS, The City of Delaware City has introduced this Ordinance in accordance with procedures established by law.

NOW THEREFORE, IT IS HEREBY ORDAINED, by the City of Delaware City that the following Code changes and revisions are adopted:

Section 1. Amend Section 29-3 of the City Code to add the following <u>underlined</u> language:

Any person violating the provisions of <u>Sections 29-1 or 29-2 of</u> this Article shall be guilty of a misdemeanor and upon conviction thereof before the Mayor or any Justice of the Peace shall be fined in a sum not exceeding one hundred dollars ($100.00) for each and every offense.

Section 2. Add a new Section 29-4 of the City Code to add the following language:

Section 29-4 Possession Of Firearms, Ammunition, Components Of Firearms, Or Explosives In Municipal Buildings And Police Stations Prohibited.

(a) Prohibition. Except as set forth in subsection (e) below, possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations is prohibited in all municipal buildings and police stations.

(b) Municipal Building Defined. For purposes of this section, "municipal buildings" are defined as any building where the City meets in its official capacity, or any building containing the offices of elected officials and of public employees actively engaged in performing governmental business, but excludes any parking facility. The definition of "municipal building" also includes any non-City owned or leased building where the City is meeting in or occupying such a building, but only during the time that the City is meeting in or occupying such a building.

(c) Required Signs. In all municipal buildings and police stations, a conspicuous sign shall be posted at each entrance stating that the possession of firearms, ammunition, components of firearms, or explosives are prohibited. Such sign may but is not required to also state that persons in violation may be denied entrance to the building or be ordered to leave the building.

(d) Immediate Departure. Any person who immediately foregoes entry or immediately exits any municipal building or police station due to the possession of a firearm, ammunition, components of firearms, or explosives shall not be guilty of violating this section.

(e) Exemptions. Nothing in this Section 29-4 shall be deemed to prevent the following in municipal buildings or police stations:

(1) Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;

(2) Law enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition, or explosives;

(3) Law enforcement agencies conducting firearms safety and training programs;

(4) Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;

(5) Compliance by persons subject to protection from abuse court orders;

(6) Carrying firearms and ammunition by persons who hold a valid license pursuant to either §1441 or §1441A of Title 11 of the Delaware Code so long as the firearm remains concealed except for inadvertent display or for self defense or defense of others;

(7) Carrying firearms and ammunition by officers or employees of the United States duly authorized to carry a concealed firearm; or

(8) Carrying firearms and ammunition by agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.

(f) Penalties. As necessary to protect public safety, any intentional violation of this Section 29-4 by any person shall be subject to a fine of at least $250.00 and not to exceed $1,000.00, or by imprisonment for not more than one year, or by both fine and imprisonment.

Section 3. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent. To the extent that this Ordinance is deemed to exceed the statutory authorization provided by HB 192, the City's intent is to implement the provisions of HB 192 to the fullest extent permitted, and the Ordinance should be interpreted so that any invalid provision is limited only to the maximum authorization permitted by HB 192.

Section 4. No Repeal Of Existing Firearms Related Ordinances. Adoption of this Ordinance shall in no way repeal or alter any law, ordinance or regulation prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985. To the extent that this Ordinance conflicts with any similar ordinance prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985, the more stringent of the two ordinances shall govern.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 2015.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

_____
Council Member

First Reading on _____,

Second Reading, Public Hearing, and Final Passage on _____.