

Council Meeting Date: October 22, 2019

Subject: City Weapons Policy

Staff Resources: Jessica Morriss, Deputy Director Transportation, Eric Edgerton, Sr. Asst. City Attorney

Action Requested: Motion to adopt an ordinance updating and amending the City's dangerous weapons ordinance.

Background:

- City staff, its transit management contractor, and the City's Transit Subcommittee have all recently identified the need for an ordinance prohibiting the possession of dangerous weapons on City Buses.
- In the course of preparing a proposed, transit-specific ordinance, it was further determined that the City's current dangerous weapons ordinance- Sec. 12.42 of the City Code- should additionally be updated to conform with guidance from the North Carolina Attorney General's Office, and to clarify its scope.
- A dangerous weapon is any object, substance, or device, other than a firearm, designed or intended to be used to incapacitate or inflict serious injury upon persons or property, including certain deadly weapons defined by statute, and other specific items enumerated in the ordinance.
- The proposed Ordinance would prohibit, with limited exceptions, the bringing of firearms or dangerous weapons into City buildings or the grounds of City buildings, as well as certain designated recreational facilities.
- The proposed Ordinance would further prohibit the bringing of dangerous weapons onto City Owned buses.
- Firearms cannot be prohibited from City buses pursuant to N.C.G.S. 14-409.40.

Council Goal(s):

- A well-planned and livable community

Committee(s):

- The Multimodal Transportation Commission unanimously recommended approval on 9/25/19
- The Public Safety Committee voted unanimously to move this item on to Council on 9/26/19

Pro(s):

- The proposed ordinance will address a gap in the City's dangerous weapons ordinance in that it will prohibit dangerous weapons on City buses, and will further update the existing dangerous weapons ordinance, which was adopted in 2011.

Con(s):

- Is not as expansive as the City may prefer given state-level preemption.

Fiscal Impact:

- None.

Suggested Motion:

- Move to approve the City's proposed new and expanded dangerous weapons ordinance.

Attachment(s)

- Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING THE CITY OF ASHEVILLE'S DANGEROUS WEAPONS
ORDINANCE

WHEREAS, North Carolina General Statute 160A-174(a) authorizes cities to adopt ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city; and

WHEREAS, cities in North Carolina are authorized to regulate firearms specifically, subject to the limitations contained in North Carolina General Statute 14-409.40; and

WHEREAS, the City of Asheville has determined that it is necessary and advisable to revise its dangerous weapons ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Sections 12-42 and 12-43 of the Asheville City Code is hereby repealed in their entirety, and replaced by a new Section 12-42, reading as specified in Section 2 of this Ordinance.

Section 2. The City Council hereby adopts Section 12-42 of the City Code, reading as follows:

(A) Prohibition.

(1) *Weapons on City Property.* It shall be unlawful for any person to willfully and intentionally carry, possess, or have within his or her immediate access any dangerous weapon or firearm while in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas.

(2) *Weapons on City Buses.* It shall be unlawful for any person to willfully and intentionally carry, possess, or have within his or her immediate access any dangerous weapon while riding a City bus.

(3a) *Carrying a Concealed Handgun by Permit (CCHP).* In accordance with N.C.G.S. §14-415.23, the prohibition set forth in subsection (A)(1) shall apply to CCHP in all buildings and on their appurtenant premises that are owned, leased as lessee, or otherwise temporarily controlled by the city which are appropriately posted as such in compliance with §14-415.11(c).

(3b) *Posting against CCHP.* In the discretion of the City Manager, a posting to prohibit CCHP is hereby authorized to be made in all buildings and their appurtenant premises that

are owned, leased as lessee, or otherwise temporarily controlled by the city in compliance with N.C.G.S. §14-415.11(c).

(3c) *Prohibiting CCHP at Recreational Facilities.* In accordance with N.C.G.S. §14-415.23, the prohibition set forth in subsection (A)(1) shall apply to CCHP at any recreational facility identified in Appendix G. The list of facilities in Appendix G shall be reviewed regularly by the city manager and updated as necessary

(B) Definitions.

For purposes of this section, the following terms shall be defined as set forth below:

- I. *Dangerous Weapon:* Any object, substance, or device, other than a firearm, designed or intended to be used to incapacitate or inflict serious injury upon persons or property, including any object defined as a deadly weapon by N.C.G.S. §14-269 and also including, but not limited to:
 - pellet guns or any other mechanism or device designed or used to project a missile by compressed air or mechanical action with less than deadly force;
 - Bows and arrows, including crossbows or any other device designed to discharge a projectile through any combination of limbs, strings, cables, pulleys, or cams.
 - knives of any kind or type having a blade in excess of 3½ inches in length;
 - clubs, blackjacks, batons and nightsticks;
 - dynamite, bombs, grenades, mines or any other explosive, corrosive, inflammable, or radioactive substance of any kind;
 - slingshots and blowguns or any other device designed or used to project a missile through mechanical or physical means;
 - electronic weapons of any type including tasers, stun guns, or any other device designed or used to emit current, impulse, wave, beam, sound, vibration, or any form of energy in such a way so as to incapacitate, injure, or affect the behavior of another;
 - chemical weapons of any type including mace, pepper spray, or any other device designed or used to emit any substance in such a way so as to incapacitate, injure, or control the behavior of another.
- II. *Firearm:* – A handgun, shotgun, or rifle which expels a projectile by action of an explosion
- III. *Carrying a Concealed Handgun by Permit (CCHP):* The lawful carry of a handgun in a concealed manner in complete accordance with the requirements of N.C.G.S. Chapter 14 Article 54B by a person holding a valid concealed handgun permit

issued pursuant to the same Article of law, or such permit issued by another State which is in reciprocity with North Carolina.

(C) **Applicability.**

This Section shall not apply to any circumstance or instance of dangerous weapon or firearm possession that has been preempted from local government regulation by N.C.G.S. 14-409.40 or 14-415.23. Additionally, this Section shall not apply to the following circumstances or persons while acting lawfully and within the scope of their duties and authority:

- (1) Officers of the United States federal government, the State of North Carolina, or of any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties.
- (2) Sworn law-enforcement officers, when off-duty, provided that an officer carries the weapon concealed and does not carry a weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body.
- (3) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.
- (4) Officers and soldiers of the militia and the National Guard when called into actual service.
- (4) Persons specifically authorized or required by state or federal law to carry firearms in the performance of their jobs.
- (5) Nothing in this Section shall prohibit a person from possession a knife with a blade in excess of 3½ inches when used solely for preparation of food, instruction or maintenance; or razors and razor blades when used solely for personal shaving.
- (6) Nothing in this Section shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on the grounds or parking areas of a public-owned building, public park, or recreation area.
- (7) Any other person authorized, in writing, by the city manager or his designee to carry or possess dangerous weapons while in or upon specified public property. The city manager may promulgate guidelines for the issuance of permits for the possession of dangerous weapons on public property. The purpose of the guidelines shall be to ensure that permits are issued only for lawful purposes and in circumstances which present no threat to the safety and welfare of any person.

- (8) This Section shall not prohibit the lawful possession or carrying of dangerous weapons on the public streets and sidewalks.

Section 3. The revision to Section 12-42 of the City Code specified herein shall be effective immediately upon adoption by City Council.

Read, approved and adopted this 22nd day of October, 2019.

City Clerk

Mayor

Approved as to form:

City Attorney