



## Legislation Details (With Text)

**File #:** 2018-1218      **Version:** 3

**Type:** Ordinance      **Status:** Passed Finally

**File created:** 12/14/2018      **In control:** Committee on Public Safety Services

**On agenda:** 3/27/2019      **Final action:** 4/2/2019

**Enactment date:** 4/2/2019      **Enactment #:** 14

**Effective date:** 4/9/2019

**Title:** An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition, and Other Weapons in its entirety, and enacting and adding Article XI: Weapons, Chapter 1101: General Weapons Provisions, Chapter 1102: Use of Assault Weapons in Public Places, and Chapter 1103: Authorized Prohibition of Assault Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.  
(Public Hearing held 1/24/19; Post Agenda held 2/12/19)

**Sponsors:** Corey O'Connor, Erika Strassburger, Bruce A. Kraus, R. Daniel Lavelle, Reverend Ricky V. Burgess, Deborah L. Gross

**Indexes:** PGH. CODE ORDINANCES TITLE 06 - CONDUCT

**Code sections:**

**Attachments:** 1. 2018-1218 VERSION 2, 2. 2018-1218 [Resource A] An Updated Assessment of the Federal Assault Weapons Ban- Impacts on Gun Markets and Gun Violence, 1994-2003, 3. 2018-1218 [Resource B] Gunshot wounds, ballistics, bullets, weapons, 4. 2018-1218 [Resource C] Declaration of John J. Donohue, 5. 2018-1218 [Resource D] Declaration of Lucy P. Allen, 6. 2018-1218 [Resource E] Criminal Use of Assault Weapons and High-Capacity Firearms- An Updated Examination of Local and National Sources, 7. 2018-1218 [Resource F] The Impact of State and Federal Assault Weapons Bans on Public Mass Shootings, 8. 2018-1218 [Resource G] Lethality of Civilian Active Shooter Incidents, 9. 2018-1218 [Resource H] Mass Casualty Shooting Venues, Types of Firearms, and Age of Perpetrators in the United States, 1982-2018, 10. 2018-1218 [Resource I] Changes in US Mass Shooting Deaths Associated With the 1994-2004 Federal Assault Wapon Ban, 11. 2018-1218 [Summary A] An Updated Assessment of the Federal Assault Weapons Ban, 12. 2018-1218 [Summary B] Gunshot Wounds- A Review of Ballistics, Bullets, Weapons, and Myths, 13. 2018-1218 [Summary C] Declaration of John J. Donohue, 14. 2018-1218 [Summary D] Declaration of Lucy P. Allen, 15. 2018-1218 [Summary E] Criminal Use of Assault Weapons and High-Capacity Firearms- an Update Examination of Local and National Sources, 16. 2018-1218 [Summary F] The Impact of State and Federal Assault Weapons Bans on Public Mass Shootings, 17. 2018-1218 [Summary G] Lethality of Civilian Active Shooter Incidents, 18. 2018-1218 [Summary H] Mass Casualty Shooting Venues, Types of Firearms, and Age of Perpetrators in the United States, 1982-2018, 19. 2018-1218 [Summary I] Changes in US Mass Shooting Deaths Associated With the 1994-2004 Federal Assault Wapon Ban

Date	Ver.	Action By	Action	Result
4/9/2019	3	Mayor	Signed by the Mayor	
4/2/2019	3	City Council	AMENDED BY SUBSTITUTE	Pass
4/2/2019	3	City Council	Passed Finally, As Amended	Pass
3/27/2019	2	Standing Committee	Affirmatively Recommended	Pass
3/20/2019	2	Standing Committee	AMENDED BY SUBSTITUTE	Pass
3/20/2019	2	Standing Committee	Held in Committee	Pass

3/13/2019	1	Standing Committee	Motion	Pass
3/13/2019	1	Standing Committee	Held in Committee	Pass
2/12/2019	1	Committee on Hearings	Post Agenda Held	
1/24/2019	1	Committee on Hearings	Public Hearing Held	
1/9/2019	1	Standing Committee	Held for Post Agenda	
1/3/2019	1	Standing Committee	Held for Public Hearing	Pass
12/18/2018	1	City Council	Read and referred	

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition, and Other Weapons in its entirety, and enacting and adding Article XI: Weapons, Chapter 1101: General Weapons Provisions, Chapter 1102: Use of Assault Weapons in Public Places, and Chapter 1103: Authorized Prohibition of Assault Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.

**(Public Hearing held 1/24/19; Post Agenda held 2/12/19)**

**The Council of the City of Pittsburgh hereby enacts:**

**SECTION I.** Chapter 607 of Title VI: Conduct, Article I: Regulated Actions and Rights of The Pittsburgh Code of Ordinances is repealed in its entirety.

**SECTION II.** The Pittsburgh Code of Ordinances is amended to add Article XI: Weapons.

**SECTION III.** Article XI: Weapons shall provide as follows in Chapter 1101: General Weapons Provisions:

### § 1101.01 DEFINITIONS

A. **Air Gun.** Any gun which uses air under pressure from pumping or other means to discharge projectiles at a muzzle velocity in excess of 200 feet per second.

B. **Ammunition.** Cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed, re-designed, or intended for use in a Firearm or destructive device.

C. **Facsimile Firearm.** Any toy, antique, starter pistol, or other object that bears a reasonable resemblance to an operable Firearm, or any object that impels a projectile by means of a spinning action, compression, or CO2 cartridge.

D. **Firearm.** Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon, and excluding the following:

1. A crossbow;

2. A recurve bow;
3. A compound bow; and
4. A longbow.

### **§ 1101.02 PROHIBITION ON WEAPONS THAT ARE NOT FIREARMS**

A. It shall be unlawful to hold in one's possession within the City of Pittsburgh weapons designed or intended to cause injury or death to persons or damage to property for which no common lawful purpose exists, including, but not limited to the following:

1. An anti-tank gun;
2. A bazooka;
3. A bomb;
4. A booby trap;
5. A flamethrower;
6. A grenade;
7. A mine; and
8. A mortar shell.

B. Nothing in this Section shall be deemed to restrict a person's ability to possess a Firearm or weapon in circumstances permitted by 18 Pa. C.S. § 908.

### **§ 1101.03 CARRYING OF FACSIMILE FIREARMS PROHIBITED**

A. No person shall carry in any vehicle or concealed or unconcealed on or about their person except when on their land or in their abode or fixed place of business any Facsimile Firearm with the intent to alarm, intimidate, terrify, or threaten any person.

### **§ 1101.04 USE OF WEAPONS BY DISCHARGE**

A. No person shall use a weapon to discharge Ammunition or arrows in any public place within the City of Pittsburgh, except in the following circumstances:

1. Firearms, except:
  - a. When under appropriate supervision at duly-established target ranges; or

b. When in circumstances permitted by the Crimes Code Act of December 6, 1972, P.L. 334, as amended (18 Pa. C.S. Sec. 101 *et seq.*);

2. Air Guns, except:

a. When under appropriate supervision at duly-established target ranges; or

b. Where the firing or discharge and missile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted;

3. Bows, including those listed in "§ 1101.01(D)(1) through § 1101.01(D)(4)," except:

a. When under appropriate supervision at duly-established target ranges; or

b. Where the firing or discharge and arrow or projectile flight are wholly confined to the user's own property, or the property of another from whom express consent has been granted.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

## § 1101.05 EXEMPTIONS

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws; and

2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:

a. The Firearm or item is housed appropriately;

b. The Firearm or item is secured from handling by those unauthorized to do so; and

c. The Firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed Firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

## § 1101.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

- A. Any person found in violation of this Chapter shall be fined up to \$1,000 and costs for each offense.
- B. Each day of a continuing violation of or failure to comply with § 1101.02 of this Chapter shall constitute a separate and distinct offense.

### **§ 1101.07 APPLICATION OF CHAPTER**

- A. This Chapter shall not be interpreted so as to exempt any person from requirements codified in Title VI: Conduct, Article I: Regulated Actions and Rights or elsewhere in Article XI: Weapons.

### **§ 1101.08 EFFECTIVE DATE**

- A. This Chapter shall take effect 60 days after its enactment.

### **§ 1101.9 SEVERABILITY**

- A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

### **§ 1101.10 FINDINGS AND PURPOSES**

- A. For the purposes of this Chapter, the City Council does hereby find that:
1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
  2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
  3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive

capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

**SECTION IV.** Article XI: Weapons shall provide as follows in Chapter 1102: Use of Assault Weapons in Public Places:

**§ 1102.01 DEFINITIONS**

A. Applicable definitions set forth in § 1101.01 shall apply as well in this Chapter 1102.

B. **Assault Weapon.** Any of the following, but not including any Firearm modified to render it permanently inoperable, or unassembled parts or a combination of parts possessed for the purposes of repairing or servicing a lawfully-possessed Firearm:

1. A Selective-Fire Firearm capable of fully automatic, Semi-Automatic or burst fire at the option of the user that has the ability to accept a Large Capacity Magazine;
2. Any of the following Semi-Automatic Firearms:
  - a. Algimec Agmi;
  - b. Armalite AR-180;
  - c. Australian Automatic Arms SAP Pistol;
  - d. Auto-Ordnance Thompson type;
  - e. Avtomat Kalashnikov AK-47 type;
  - f. Barrett Light-Fifty model 82A1;
  - g. Beretta AR-70;
  - h. Bushmaster Auto Rifle and Auto Pistol;
  - i. Calico models M-900, M-950 and 100-P;
  - j. Chartered Industries of Singapore SR-88;
  - k. Colt AR-15 and Sporter;
  - l. Daewoo K-1, K-2, Max-1 and Max-2;
  - m. Ecom MK-IV, MP-9 and MP-45;
  - n. Fabrique Nationale FN/FAL, FN/LAR or FN/FNC;
  - o. FAMAS MAS 223;
  - p. Feather AT-9 and Mini-AT;

- q. Federal XC-900 and XC-450;
- r. Franchi SPAS-12 and Law-12;
- s. Galil AR and ARM;
- t. Goncz High-Tech Carbine and High-Tech Long Pistol;
- u. Heckler & Koch HK-91, HK-93, HK-94 and SP-89;
- v. Holmes MP-83;
- w. Intratec TEC-9 and Scorpion;
- x. Iver Johnson Enforcer model 3000;
- y. MAC-10, MAC-11 and MAC-11 Carbine type;
- z. Ruger Mini-14/5F folding stock model only;
- aa. Scarab Skorpion;
- bb. SIG 57 AMT and 500 series;
- cc. Spectre Auto Carbine and Auto Pistol;
- dd. Springfield Armory BM59, SAR-48 and G-3;
- ee. Sterline MK-6 and MK-7;
- ff. Steyr AUG;
- gg. Street Sweeper and Striker 12 revolving cylinder shotguns;
- hh. USAS-12;
- ii. UZI Carbine, Mini-Carbine and Pistol;
- jj. Weaver Arms Nighthawk; and
- kk. Wilkinson "Linda" Pistol;

3. A Semi-Automatic Firearm not specifically listed in § 1102.01(B)(2) that meets any of the following criteria:

- a. The Firearm is a Semi-Automatic, centerfire rifle that has an ability to accept a detachable magazine and has at least one of the following:
  - i. A folding or telescoping stock;
  - ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;



- iii. A thumbhole stock;
  - iv. A second handgrip or a protruding grip that can be held by the non-trigger hand;
  - v. A flash suppressor, muzzle brake, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle brake, or muzzle compensator; or
  - vi. A grenade launcher or flare launcher.
- b. The Firearm is a Semi-Automatic, centerfire rifle with a fixed magazine with the ability to accept more than 10 rounds.
- c. The Firearm is a Semi-Automatic, centerfire rifle that has an overall length of less than 30 inches.
- d. The Firearm is a Semi-Automatic, centerfire pistol that has an ability to accept a detachable magazine and has at least one of the following:
- i. Capacity to accept an Ammunition magazine that attaches to the pistol outside of the pistol grip;
  - ii. A second handgrip;
  - iii. A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; or
  - iv. A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the Firearm with the non-trigger hand without being burned, except a slide that encloses the barrel.
- e. The Firearm is a Semi-Automatic, centerfire pistol with a fixed magazine that has the ability to accept more than 10 rounds.
- f. The Firearm is a Semi-Automatic, centerfire shotgun that has at least one of the following:
- i. A folding or telescoping stock;
  - ii. A pistol grip that protrudes conspicuously beneath the action of the weapon;
  - iii. A thumbhole stock;
  - iv. A vertical handgrip; or
  - v. An ability to accept a detachable magazine.
- g. Any shotgun with a revolving cylinder.

**C. Large Capacity Magazine.** A Firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of Ammunition. This definition shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of Ammunition;
2. A .22 caliber tube Ammunition feeding device;
3. A tubular magazine that is contained in a lever-action Firearm; and
4. A magazine that is permanently inoperable.

**D. Selective Fire.** Refers to the adjustment capability of weapons to fire in Semi-Automatic, multi-shot bursts, and / or automatic modes.

**E. Semi-Automatic.** A Firearm that fires a single round for each pull of the trigger and uses the force from the discharged round to chamber a new round immediately after each round is fired.

## § 1102.02 PROHIBITION ON USE OF ASSAULT WEAPONS

A. It shall be unlawful to use any Assault Weapon in any public place within the City of Pittsburgh.

B. For purposes of this Section, "public place" shall include streets, parks, open spaces, public buildings, public accommodations, businesses and other locations to which the general public has a right to resort, but does not include a private home or residence or any duly established site for the sale or transfer of Firearms or for Firearm training, practice or competition.

C. For purposes of this Section, "use" of an Assault Weapon does not include possession, ownership, transportation or transfer. "Use" of an Assault Weapon shall include, but is not limited to:

1. Discharging or attempting to discharge an Assault Weapon;
2. Loading an Assault Weapon with Ammunition;
3. Brandishing an Assault Weapon;
4. Displaying a loaded Assault Weapon;
5. Pointing an Assault Weapon at any person; and
6. Employing an Assault Weapon for any purpose prohibited by the laws of Pennsylvania or of the United States.

D. For purposes of this Section, the term "brandishing" means, with respect to a Firearm, to display all or part of the Firearm, or otherwise make the presence of the Firearm known to another person, in order to intimidate that person, regardless of whether the Firearm is directly visible to that person.

E. For purposes of this Section, there shall be a rebuttable presumption that an Assault Weapon is loaded if fitted with a magazine.

### **§ 1102.03 PENALTIES FOR VIOLATIONS**

A. Any person found in violation of this Chapter shall be fined up to \$1,000 and costs for each offense.

### **§ 1102.04 EXEMPTIONS**

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in executing its official duties, including those charged with the enforcement of laws; and
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
  - a. The Firearm or item is housed appropriately;
  - b. The Firearm or item is secured from handling by those unauthorized to do so; and
  - c. The Firearm or device is unloaded, when and if possible.

B. Nothing in this Chapter shall be deemed to restrict a person's ability to use a lawfully possessed Firearm for immediate and otherwise lawful protection of a person's or another person's person or property or for lawful hunting purposes.

### **§ 1102.05 APPLICATION OF CHAPTER**

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI: Weapons.

### **§ 1102.06 EFFECTIVE DATE**

A. This Chapter shall take effect 60 days after its enactment.

### **§ 1102.07 SEVERABILITY**

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

## § 1102.08 FINDINGS AND PURPOSES

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and
2. As demonstrated by the following findings and purposes, gun violence presents a significant and undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and
3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and
4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and
5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and
6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and
7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and
8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary

firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation”; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents’ justified demands for protection; and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.

**SECTION V. Article XI: Weapons shall provide as follows in Chapter 1103: Authorized Prohibition of Assault Weapons:**

**§ 1103.01 DEFINITIONS**

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall also apply in this Chapter 1103.

**§ 1103.02 AUTHORIZED PROHIBITION OF ASSAULT WEAPONS**

A. Following the Effective Date as set forth in § 1103.06, it shall be unlawful to own, possess, transfer or transport an Assault Weapon within the City of Pittsburgh.

**§ 1103.03 EXEMPTIONS**

A. In addition to the exemptions otherwise enumerated herein, the contents of this Chapter shall not apply to:

1. Any federal, state, county, or city agency, or any authorized agent or employee thereof, for use in the discharge of its official duties, including those charged with the enforcement of laws;
2. Any federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the following conditions are met:
  - a. The Firearm or item is housed appropriately;
  - b. The Firearm or item is secured from handling by those unauthorized to do so; and

c. The Firearm or device is unloaded, when and if possible; and

3. A person lawfully owning or otherwise possessing an Assault Weapon before the effective date of this Chapter.

#### **§ 1103.04 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY**

A. Any person found in violation of this Chapter or who otherwise fails to comply shall be fined up to \$1,000 and costs for each offense.

B. Each day of a continuing violation of or failure to comply with this Chapter shall constitute a separate and distinct offense.

#### **§ 1103.05 APPLICATION OF CHAPTER**

A. This Chapter shall not be interpreted so as to exempt any person from requirements codified elsewhere in Article XI.

#### **§ 1103.06 EFFECTIVE DATE**

A. Section 1103.02 of this Chapter shall take effect 60 days after, and to the extent permitted by, action of the Pennsylvania General Assembly or the Pennsylvania Supreme Court that has the effect of authorizing the implementation and enforcement of § 1103.02 by the City of Pittsburgh.

#### **§ 1103.07 SEVERABILITY**

A. Severability is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.

#### **§ 1103.08 FINDINGS AND PURPOSES**

A. For the purposes of this Chapter, the City Council does hereby find that:

1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and

2. As demonstrated by the following findings and purposes, gun violence presents a significant and

undeniable public safety risk to the people of Pittsburgh and Pennsylvania, and both the City and the Commonwealth have a moral imperative to take lawfully available steps to reduce gun violence; and

3. Empirical study and recent history demonstrate that Assault Weapons and Large Capacity Magazines should be prohibited, because they present an unacceptable and needless public safety risk. Prohibitions of Assault Weapons and Large Capacity Magazines are correlated with reductions in mass shootings, and the use of Assault Weapons and Large Capacity Magazines results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers. Shooters using Assault Weapons and Large Capacity Magazines can fire more rounds more quickly than shooters using other guns more suitable for self-defense, and fire rounds with greater destructive capacity. That tragic truth has been proven and re-proven in mass shootings around the country, including on October 27, 2018, at the Tree of Life synagogue in Pittsburgh. Especially in a crowded urban jurisdiction like this one, there is no legitimate need for Assault Weapons and Large Capacity Magazines that can justify the consequences of tolerating the proliferation of military-style weaponry in the community; and

4. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution. Courts in many jurisdictions have thus upheld prohibitions on Assault Weapons, Large Capacity Magazines, and other weaponry that poses a particular threat to public safety, which leave many other options for self-defense and other legitimate uses of Firearms; and

5. The City Council recognizes that 18 Pa. C.S. § 6120(a) and 53 Pa. C.S. § 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of Firearms, and, as to 18 Pa. C.S. § 6120, Ammunition, and Ammunition components, and that Pennsylvania courts, including the Supreme Court of Pennsylvania, have concluded that municipalities have no authority to wholly prohibit ownership, possession, transportation and transfer of Assault Weapons under existing Pennsylvania law; and

6. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer or transportation of Assault Weapons unless and until governing law allows it to become effective; and

7. A Second Class City has the power under 53 P.S. § 23131, and City Council has the authority under the City of Pittsburgh's Home Rule Charter, "to regulate, prevent and punish the discharge of Firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons"; and

8. The City Council has authority under 53 P.S. § 3703 to "regulate or to prohibit and prevent the sale and use of fireworks, firecrackers, sparklers, and other pyrotechnics in such cities, and the unnecessary firing and discharge of Firearms in or into the highways and other public places thereof, and to pass all necessary ordinances regulating or forbidding the same and prescribing penalties for their violation"; and

9. The City Council hereby calls upon and petitions the Pennsylvania General Assembly either to protect all Pennsylvanians by prohibiting Assault Weapons, or to allow the elected representatives of Pittsburgh and other municipalities to honor their own constituents' justified demands for protection;

and

10. The City Council has authority to legislate regarding the use of Firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. Appropriate restrictions on the use of Assault Weapons will promote public safety, even if not as completely as a prohibition, both by imposing criminal liability on those who would use Assault Weapons in public spaces and by allowing police officers to intercede earlier and deter future tragedies.