



Text File

Introduced: 12/14/2018

Bill No: 2018-1219, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Passed Finally

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by enacting and adding Article XI: Weapons, Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications, and Chapter 1105: Authorized Prohibition of Large Capacity Magazines.
(Public Hearing held 1/24/19; Post Agenda held 2/12/19)

The Council of the City of Pittsburgh hereby enacts:

SECTION I Article XI: Weapons shall provide as follows in Chapter 1104: Prohibition on the Use of Certain Accessories, Ammunition, and Modifications:

§ 1104.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01 and 1102.01 shall also apply to this Chapter 1104.

B. Armor or Metal Penetrating Ammunition. Any Ammunition, except a shotgun shell, that is designed primarily to penetrate a body vest or a body shield, and has either of the following characteristics:

1. Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness; or
2. Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, teflon coating and / or Ammunition commonly known as “KTW Ammunition,” to breach or penetrate a body vest or body shield when fired from a Firearm.

C. Binary Trigger. A Firearm’s trigger designed to fire one round of Ammunition on the pull of the trigger and another round upon the release of the trigger.

D. 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.

E. Multi-Burst Trigger Activator. Either of the following:

1. A device designed or redesigned to be attached to a Semi-Automatic Firearm, which allows the Firearm to discharge two or more shots in a burst by activating the device; or
2. A manual or power-driven trigger-activating device constructed and designed so that it increases the rate of fire of a Semi-Automatic Firearm when attached to that Firearm.

F. Rapid Fire Device. Any device, part, accessory, attachment, or modification designed to accelerate substantially the rate of fire of a Firearm, including, but not limited to:

1. A binary trigger;
2. A multi-burst trigger activator; and
3. A trigger crank.

G. Trigger Crank. A trigger actuator that attaches to the trigger of a Semi-Automatic Firearm and causes the weapon to fire by turning the crank handle.

§ 1104.02 PROHIBITED USES OF ARMOR PENETRATING AMMUNITION

A. It shall be unlawful to use Armor or Metal Penetrating Ammunition 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 Ammunition does not include possession, ownership, transportation or transfer. “Use” of Ammunition shall include, but is not limited to:

1. Discharging or attempting to discharge by means of a Firearm; and

2. Loading it into a Firearm or magazine.

§ 1104.03 PROHIBITED USE OF LARGE CAPACITY MAGAZINE

A. It shall be unlawful to use in any public place within the City of Pittsburgh any Large Capacity Magazine.

B. For purposes of this Section, “use” of a Large Capacity Magazine does not include possession, ownership, transportation or transfer. “Use” of a Large Capacity Magazine shall include:

1. Employing it to discharge or in attempt to discharge Ammunition by means of a Firearm;
2. Loading it with Ammunition;
3. Fitting or installing it into a Firearm;
4. Brandishing it with a Firearm;
5. Displaying it with a Firearm while loaded; and
6. Employing it for any purpose prohibited by the laws of Pennsylvania or of the United States.

C. 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.

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.

§ 1104.04 USE OF RAPID FIRE DEVICES PROHIBITED

A. It shall be unlawful to use any rapid fire device in any public place within the City of Pittsburgh.

B. This Chapter shall not be construed to prohibit the use of a replacement trigger or trigger components manufactured and intended to decrease the weight of the trigger pull, or to improve the quality and release of the trigger pull in a Firearm.

§ 1104.05 EXEMPTIONS

- A. The contents of this Chapter shall not apply to 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.
- 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.

§ 1104.06 PENALTIES FOR VIOLATIONS, FAILURE TO COMPLY

- A. Any person who violates the provisions of this Chapter shall be fined up to \$1,000 and costs for each offense.

§ 1104.07 APPLICATION OF CHAPTER

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

§ 1104.08 EFFECTIVE DATE

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

§ 1104.09 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.

§ 1104.10 FINDINGS AND PURPOSE

- 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 on 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 such 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 routinely 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 with a prohibition on Assault Weapons and Large Capacity Magazines, 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 Ammunition and Ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding Firearm accessories that do not come within applicable state law definitions of Firearms or Ammunition and Ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of Firearms.

SECTION II. Article XI: Weapons shall provide as follows in Chapter 1105: Authorized Prohibition of Large Capacity Magazines:

§ 1105.01 DEFINITIONS

A. Applicable definitions set forth in §§ 1101.01, 1102.01 and 1104.01 shall apply as well in this Chapter 1105.

§ 1105.02 PROHIBITION OF LARGE CAPACITY MAGAZINES

A. Following the effective date set forth in § 1105.06, it shall be unlawful to own, possess, transfer or transport

a Large Capacity Magazine within the City of Pittsburgh.

§ 1105.03 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.

§ 1105.04 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.

§ 1105.05 APPLICATION OF CHAPTER

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

§ 1105.06 EFFECTIVE DATE

A. Section 1105.02 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 § 1105.02 by the City of Pittsburgh.

§ 1105.07 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.

§ 1105.08 FINDINGS AND PURPOSE

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 on 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 such 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 routinely 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 with a prohibition on Assault Weapons and Large Capacity Magazines, 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 Ammunition and Ammunition components, as distinguished from ownership, possession, transfer, or transportation, in order to protect members of the public; and

11. The City Council has authority to legislate regarding Firearm accessories that do not come within applicable state law definitions of Firearms or Ammunition and Ammunition components; and

12. The City Council has authority to legislate regarding accessories that increase the lethality of

Introduced: 12/14/2018

Bill No: 2018-1219, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Passed Finally

Firearms.