

ORDINANCE NO. 14-O-0010

AN ORDINANCE AMENDING ARTICLE VIII OF APPENDIX C, PERSONNEL RULES, OF THE CODE OF ORDINANCES OF THE CITY OF WEST CHICAGO, ILLINOIS, TO ADD SECTION EE GOVERNING THE POSSESSION OF FIREARMS BY EMPLOYEES LICENSED UNDER THE FIREARMS CONCEALED CARRY ACT WHEN ON DUTY, ON CITY PROPERTY, OR IN VEHICLES OWNED BY THE CITY

WHEREAS, the City of West Chicago ("City") is a duly organized and existing municipality pursuant to the Illinois City Code, 65 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, pursuant to Section 10-4-1 of the Illinois City Code, 65 ILCS 5/10-4-1, the City is authorized to pass all necessary rules and regulations governing the relationship among employees and between employees and officer and the people of the City; and

WHEREAS, the City is a home-rule municipality pursuant to Article VII, Section 6, of the Constitution of the State of Illinois, and may regulate matters pertaining to its affairs in accordance with said Section; and

WHEREAS, the Illinois General Assembly has enacted Public Act 98-63, known as the "Firearms Concealed Carry Act", 430 ILCS 66/1, *et seq.* ("Act"), effective July 9, 2013, which authorizes persons licensed thereunder to carry on their persons and in vehicles concealed or partially concealed firearms except as restricted thereunder; and

WHEREAS, among the Act's restrictions on the possession of firearms by persons licensed thereunder are certain locations designated as "prohibited areas", as itemized in Section 65 of the Act, 430 ILCS 66/65; and

WHEREAS, buildings or portions of buildings owned by units of local governments are "prohibited areas" areas specified in Section 65 of the Act; and

WHEREAS, also, under Section 65(a-10) of the Act, 430 ILCS 66/65(a-10), an owner of private real property of any kind is authorized to prohibit the carrying of concealed firearms on property under his or her control and, if the property is private residential property, is not required to post a sign or otherwise provide notice of such; and

WHEREAS, further, a private owner has a constitutionally protected common law right to prohibit to firearms anywhere on his or her property, which right is not overridden or limited by the Second Amendment's right to bear arms; and

WHEREAS, additionally, violations of the Act may occur from possession of concealed firearms in City vehicles because certain vehicles, such as motorized carts and construction equipment, are not lockable and do not have compartments or other areas where firearms can be stowed as required by Section 65(b) of the Act, 430 ILCS 66/65(b), and because some vehicles are shared with other employees or persons, and a concealed fire could not be left in the vehicle

with an employee or person not licensed under the Act where a licensed employee had to leave vehicle and had to leave the concealed firearm in the vehicle; and

WHEREAS, violations of the Act's restrictions on the possession of firearms by employees, independent contractors, and volunteers licensed under the Act in the course of their duties on behalf of the City would not only jeopardize their licenses, but also expose the City to potential liability as well as to claims related to such violations; and

WHEREAS, in order to prevent any inadvertent or unintended violations of the Act, the City Council of the City has determined that it is necessary and proper that the City amend Appendix C, Personnel Rules, of the Code of Ordinances of the City of West Chicago, Illinois, to provide for regulations governing the possession of firearms by licensed employees, independent contractors, and volunteers of the City when performing duties related to their positions; and

WHEREAS, the City Council of the City has determined that the regulations set out below are based upon and apply the Act's restrictions to situations and functions related to the duties of those employees, independent contractors, and volunteers, and are necessary and proper to prevent inadvertent or unintended violations of the Act's restrictions and potential liability to the City therefrom, and, accordingly, should be adopted as the regulations on the concealed carrying of firearms by employees, independent contractors, and volunteers licensed by the Act when performing their City duties; and

WHEREAS, in adopting these regulations, it is not the intention of the City to enact controls on concealed carry that are incompatible with the Act or to limit, restrict, or deny its employees, independent contractors, and volunteers licensed thereunder their rights under the Act, the Second Amendment of the United States Constitution, or Article I, Section 22, of the Illinois Constitution.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Chicago, DuPage County, Illinois, duly assembled in a regular meeting, as follows:

Section 1. Recitals. The recitals set forth above are incorporated herein and made a part hereof.

Section 2. Amendment of Personnel Rules. Article VIII of Appendix C, Personnel Rules, of the Code of Ordinances of the City of West Chicago, Illinois, is hereby amended to add Section EE as follows:

- (1) Purpose. These regulations are applicable to the possession of Concealed Firearms by Licensed Employees whenever they are On Duty with the City. The regulations apply the general restrictions "Firearms Concealed Carry Act," 430 ILCS 66/1, *et seq.* ("Act"), to specific requirements and conditions related to a Licensed Employee's performance of his or her City duties. As set forth in the Findings below, a Licensed Employee's possession of a Concealed Firearm in the performance of certain aspects of his or her duties would violate the Act or certain private property rights, and, accordingly, these

regulations are intended to prevent such violations and liability to the City therefrom. The regulations are not intended to restrict or deny the rights of a Licensed Employee under the Act or under the Second Amendment of the United States Constitution, or Article I, Section 22, of the Illinois Constitution and law pursuant thereto.

(2) Findings. The City Council of the City of the West Chicago hereby finds and determines that:

- (a) In the event of an emergency or claimed violation of the Act involving possession by a Licensed Employee, it is important that the City be able to readily ascertain that the Licensed Employee is duly licensed under the Act. Accordingly, it is proper that the Licensed Employee provide and the City maintain information on the Licensed Employee's issuance of a license under the Act and the renewal, suspension, and revocation thereof.
- (b) Employees' use of City Vehicles in carrying out their duties includes driving them onto private property. Section 65(a-10) of the Act, 430 ILCS 66/65(a-10), expressly authorizes an owner of private real property of any kind to prohibit the possession of Concealed Firearms on property under his or her control and does not require owners of private residential property to post a sign or otherwise provide notice of such. While Section 65 (b) of the Act, 430 ILCS 66/65(b), allows a Concealed Firearm to be stored in a locked vehicle or in a locked container out of plain view in a vehicle in the parking area of most "prohibited areas", a private property owner has a constitutionally protected common law right to prohibit firearms anywhere on his or her property, and this right is not overridden or limited by the Second Amendment's right to bear arms. *GeorgiaCarry.Org., Inc., v. Georgia*, 687 F2d. 1244, 1265-1266 (11th Cir. 2012). Also, some City vehicles, such as motorized carts and construction equipment, are not lockable and do not have compartments or other areas where a Concealed Firearm can be stowed as required by Section 65 (b) of the Act. Additionally, a Licensed Employee in many cases has to share a vehicle with a person in the course of his or her duties. If the Licensed Employee has a Concealed Firearm in the vehicle shared with a person who does not have a concealed carry license, and the Licensed Employee must leave the vehicle and leave the firearm in it, a Concealed Firearm would be left in the possession of a non-licensed person, in violation of the Act. Accordingly, it is proper that Concealed Firearms be prohibited in all City Vehicles at all times.

(3) Definitions. The following terms in these regulations shall have the meanings stated below:

“Act”: The “Firearms Concealed Carry Act”, 430 ILCS 66/1, *et seq.*, and all amendments thereto enacted and effective after the adoption of these regulations.

“Concealed Firearm”: A concealed firearm as defined in Section 5 of the Act, 430 ILCS 66/5.

“Employee”: 1) Any person employed full-time or part-time or on a temporary basis by the City; 2) any volunteer or person volunteering services or labor to the City full-time or part-time or on a temporary basis; and 3) any independent contractor of the City or representative of such contractor when performing contractual duties for the City whether on City Property or in the field. An “Employee” shall not include a police or other peace officer of the City or of another governmental entity when performing duties on behalf of the City.

“Licensed Employee”: An Employee having a current, valid license under the Act.

“City Property”: Any real estate owned, leased, or licensed to the City or under possession and control of the City except public rights-of-way.

“City Vehicle”: A vehicle of any kind owned, leased, or in the possession and control of the City, or a personal or other vehicle used by a Licensed Employee for his or her City duties for which use the employee receives, or is entitled to receive, mileage, or other compensation.

“On Duty”: The time each day that an Employee reports for or otherwise begins the performance his or her City duties until the time he or she permanently concludes those duties for the day, regardless of whether such duties are begun or concluded on City Property. However, an Employee shall not be deemed “On Duty” when on a meal at the times and for the duration provided for in these Personnel Rules, a collective bargaining agreement, or other applicable City regulations.

(4) Restrictions on Concealed Firearms.

(a) Licensed Employee’s Possession of Concealed Firearms.

No Licensed Employee shall possess a Concealed Firearm when On Duty or on City Property except in compliance with the Act and these regulations.

Further, no Licensed Employee shall possess a Concealed Firearm while On Duty or on City Property where allowed by the Act, unless the Licensed Employee shall have first notified the City in writing on a form

provided by the City that he or she is duly licensed under the Act and shall have furnished the City with a photocopy of his or her Concealed Firearm license. Such a Licensed Employee shall also notify the City in writing on a form provided by the City each time his or her Concealed Firearm license is renewed and shall furnish the City with a photocopy of the renewed license.

A Licensed Employee who has notified the City of a Concealed Firearms license under this subsection shall also notify the City in writing if his or her Concealed Firearm license is suspended or revoked. A Licensed Employee shall be prohibited from possessing a Concealed Firearm On Duty or on City Property until such license is reinstated and the Licensed Employee shall have provided the City with written notice of such on a form provided by the City and evidence establishing reinstatement which the City may require.

- (b) City Buildings. Concealed Firearms are prohibited in all City buildings in accordance with Section 65 of the Act, 430 ILCS 66/65.
- (c) City Vehicles. Concealed Firearms are prohibited in all City Vehicles at all times.
- (5) Noncompliance. Violations of these regulations shall subject a Licensed Employee to disciplinary proceedings under Article VII, Employee Conduct and Disciplinary Procedure, of these Personnel Rules, which may result in the suspension or termination of the Licensed Employee. Violations of these regulations which are also violations of the Act shall be reported to the appropriate law enforcement agency.
- (6) Police and Other Peace Officers. No part of these regulations shall apply to a police or other peace officer of the City or of another governmental entity.
- (7) Interpretation of Regulations. The regulations in this Section EE shall be interpreted to be consistent with the Act and a Licensed Employee's right thereunder and under the Second Amendment of the United States Constitution, and Article I, Section 22, of the Illinois Constitution and law pursuant thereto. If any provision of these regulations is determined to violate the Act, other law, or the constitutional rights of a Licensed Employee, it shall not affect the validity of other regulations not determined to violate such."

Section 3. Conflict with other ordinances and resolutions. All ordinances and resolutions, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 4. When effective. This Ordinance shall be in effect from and after its passage and approval, and required recording in the manner provided by law.

PASSED this _____ day of March 2014

Alderman L. Chassee	_____	Alderman J. Beifuss	_____
Alderman A. Hallett	_____	Alderman J. Banas	_____
Alderman A. Murphy	_____	Alderman S. Dimas	_____
Alderman K. Meissner	_____	Alderman R. Stout	_____
Alderman L. Grodoski	_____	Alderman D. F. Earley	_____
Alderman M. Fuesting	_____	Alderman M. Edwalds	_____
Alderman J. Smith	_____	Alderman J. C. Smith, Jr.	_____

APPROVED as to form: _____
City Attorney

APPROVED this _____ day of March 2014.

Ruben Pineda, Mayor

ATTEST:

Nancy M. Smith, City Clerk

PUBLISHED: _____