

BILL NO. 14-184

ORDINANCE NO. 4651

AN ORDINANCE AMENDING SECTION 17-98 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, REGARDING UNLAWFUL POSSESSION OR USE OF WEAPONS

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. Section 17-98, of the Code of Ordinances of the City of Cape Girardeau, Missouri, reading as follows:

Sec. 17-98. - Unlawful possession or use of weapons.

(a) A person commits the offense of unlawful possession or use of weapons if he knowingly:

(1) Carries, concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(3) Discharges a firearm or projectile weapon; or

(4) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(5) Openly carries a firearm readily capable of lethal use.

(b) Subsections (a)(1), (3), (4) and (5) of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violations of the general criminal laws of the state or for violations of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state;

(5) Any persons whose bona fide duty is to execute process, civil or criminal.

(c) Subsections (a)(1), (2), (4) and (5) of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection (a)(1) of this section does not apply when the actor is in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subsection (a)(3) of this section does not apply when the actor discharges a firearm or projectile weapon in a safe manner at a suitable firearm, air gun or archery range. Subsection (a)(3) of this section does not apply when the actor is in his dwelling unit or upon business premises over which the actor has possession and reasonably discharges a firearm or projectile weapon in defense of himself, a third person or property. Subsection (a)(5) of this section does not apply when the

actor openly carries a firearm readily capable of lethal use at a suitable firearm range.

(d) Subsections (a)(1) and (4) of this section shall not apply to any person possessing a valid authorization to carry concealed weapons under RSMo § 571.094, to the extent that statute prohibits the enforcement of those subsections, and subject to the location limitations, and other limitations contained in that statute.

~~is hereby repealed in its entirety,~~ and a new Section 17-98 of the City of Cape Girardeau, Missouri, is hereby enacted in lieu thereof, in words and figures, to read as follows:

Sec. 17-98. - Unlawful possession or use of weapons.

(a) A person commits the offense of unlawful possession or use of weapons if he knowingly:

(1) Carries, concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(3) Discharges a firearm or projectile weapon; or

(4) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(5) Openly carries a firearm readily capable of lethal use; or

(6) Possesses a firearm while also knowingly in possession of a controlled substance that

is sufficient for a felony violation of RSMo § 195.202.

(b) Subsections (a)(1), (3), (4) and (5) of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violations of the general criminal laws of the state or for violations of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state;

(5) Any persons whose bona fide duty is to execute process, civil or criminal.

(c) Subsections (a)(1), (2), (4) and (5) of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection (a)(1) of this section does not apply when the actor is in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subsection (a)(3) of this section does not apply when the actor discharges a firearm or projectile weapon in a safe manner at a suitable firearm, air gun or archery range. Subsection (a)(3) of this section does not apply when the actor is in his dwelling unit or upon business premises over which the actor has possession and reasonably discharges a

firearm or projectile weapon in defense of himself, a third person or property. Subsection (a)(5) of this section does not apply when the actor openly carries a firearm readily capable of lethal use at a suitable firearm range, or in the lawful pursuit of game. Subsection (a)(5) of this Section also does not apply in accordance with the following:

(1) Any person with a valid concealed carry endorsement or permit who is open carrying a firearm shall be required to have a valid concealed carry endorsement or permit from this state, or a permit from another state that is recognized by this state, in his or her possession at all times;

(2) Any person open carrying a firearm shall display his or her concealed carry endorsement or permit upon demand of a law enforcement officer;

(3) In the absence of any reasonable and articulable suspicion of criminal activity, no person carrying a concealed or unconcealed firearm shall be disarmed or physically restrained by a law enforcement officer unless under arrest;

(4) Any person who violates Subsections (c)(1) or (c)(2) of this Section shall be subject to the penalty provided in RSMo § 571.121.

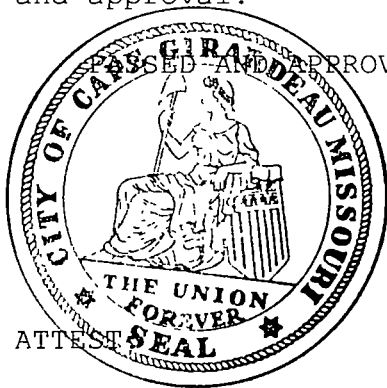
(d) Subsections (a)(1) and (4) of this section shall not apply to any person possessing a valid authorization to carry concealed weapons under RSMo § 571.094, to the extent that statute prohibits the enforcement of those subsections, and subject to the location limitations, and other limitations contained in that statute.

(e) Nothing in this Section shall be construed to preclude the use of a firearm in defense of person or property, subject to the provisions of RSMo Chapter 563.

ARTICLE 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

ARTICLE 3. This ordinance shall take effect and be in force from and after ten days after its final passage and approval.



ATTEST

Gayle L. Conrad
Gayle L. Conrad, City Clerk

PASSED AND APPROVED THIS 15th DAY OF December, 2014.

Harry E. Rediger
Harry E. Rediger, Mayor