

NO. 3024

<p>AN ORDINANCE AMENDING CHAPTER 94 (FIREARMS AND DANGEROUS WEAPONS) OF TITLE 9 OF THE LIVONIA CODE OF ORDINANCES, AS AMENDED.</p>

THE CITY OF LIVONIA ORDAINS:

Section 1. Chapter 94 of Title 9 of the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

CHAPTER 9.94

FIREARMS AND DANGEROUS WEAPONS

Sections:

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| 9.94.020 | Definitions. |
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| 9.94.050 | Possession of Portable Electrical Device—Persons exempted. |
| 9.94.060 | Self-defense spray or foam. |
| 9.94.070 | Carrying firearm or dangerous weapon with unlawful intent prohibited. |
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| 9.94.100 | Aiming and discharging firearm—Restrictions. |
| 9.94.110 | Injuring persons by discharge of firearm prohibited when. |
| 9.94.120 | Possession or use of firearms while intoxicated prohibited—Penalties—Testing. |
| 9.94.130 | Possession of firearm by person less than eighteen years of age prohibited when. |
| 9.94.140 | Carrying dangerous weapons or carrying dangerous weapons in motor vehicle prohibited. |
| 9.94.150 | Concealed pistol license; possession; disclosure to peace officer; violation; penalty; notice to department and issuing board; seizure; forfeiture; ‘peace officer’ defined. |
| 9.94.160 | Transportation or possession of loaded firearm other than pistol in or upon motor vehicle prohibited. |
| 9.94.170 | Transportation or possession of firearm other than pistol or pneumatic gun in or upon motor vehicle—Restrictions. |

9.94.180 Possession of firearm in designated establishments prohibited—Exceptions.

9.94.010 Title for citation. The ordinance codified in this chapter shall be known and cited as the “firearms and dangerous weapons ordinance.”

9.94.020 Definitions. The following words and phrases, when used in this chapter, shall for the purpose of this chapter have the following meanings:

- A. "Alcoholic liquor" means that term as defined now or hereafter by the Public Acts of the State of Michigan. Currently said term is defined in section 105 of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1105, as amended.
- B. "Ammunition" means any projectile or other device designed to be expelled by any firearm, excluding non-explosive projectiles or other devices over six (6) inches in length.
- C. "Barrel length" of a firearm shall be measured internally, from the face of the closed breach of an unloaded firearm, to the forward face of the end of the barrel.
- D. "City" means the City of Livonia, Wayne County, Michigan.
- E. "Controlled substance" means a controlled substance as defined now or hereafter by the Public Acts of the State of Michigan. Currently, such controlled substances are defined by 1978 PA 368, as amended, being MCL 333.1101 et seq.
- F. "Dangerous weapon" means a firearm; dagger, dirk, stiletto, knife with a blade over three (3) inches in length or double-edged, nonfolding stabbing instrument; any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance; a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill; an iron bar, club, brass knuckles, or any other object that is intended to be used unlawfully in a way to cause serious physical injury or death.
- G. "Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.
- H. "Muffler" or "silencer" means a device for muffling, silencing, or deadening the report of a firearm; a combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer; or a part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.
- I. "Person" means every natural person, firm, copartnership, association or corporation, and their legal successors.

- J. "Pistol" means a firearm, loaded or unloaded, twenty-six (26) inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.
- K. "Pneumatic gun" means any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.
- L. "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
- M. "Short-barreled rifle" means a rifle having one (1) or more barrels less than sixteen (16) inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than twenty-six (26) inches.
- N. "Short-barreled shotgun" means a shotgun having one (1) or more barrels less than eighteen (18) inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than twenty-six (26) inches.
- O. "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

9.94.030 Possession of short-barreled shotgun, short-barreled rifle, or specified dangerous weapons prohibited—Exceptions. It is unlawful for any person to possess a short-barreled shotgun, short-barreled rifle, a muffler or silencer; a bomb or bombshell; or a blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon, except as specifically allowed by state or federal law.

9.94.040 Possession of pocket knife opened by mechanical device prohibited—Persons exempted. A. It is unlawful for any person to have in his or her possession any knife having the appearance of a pocket knife, the blade or blades or which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance.

B. The provisions of this section shall not apply to any one-armed person carrying a knife on his or her person in connection with his or her living requirements.

9.94.050 Possession of Portable Electrical Device—Persons exempted. A. It is unlawful for any person to have in his or her possession a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill

B. The provisions of this section shall not apply to any person permitted or licensed under state law to possess or carry said weapon.

C. Except as specifically allowed under state law, a person shall not sell, offer for sale, or possess a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill.

9.94.060 Self-defense spray or foam. A. A person shall not manufacture, sell, offer for sale, or possess a device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disable by the ejection, release, or emission of a gas or other substance, except a “self-defense spray or foam device.”

B. As used in this section, “self-defense spray or foam device” means a device to which all of the following apply:

a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:

- i. Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.
- ii. A solution containing not more than 10% oleoresin capsicum.

b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(i) or (ii).

C. Except as otherwise provided in this section, a person who uses a self-defense spray or foam device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor.

D. A person shall not sell a self-defense spray or foam device to a minor. A person who violates this subsection is guilty of a misdemeanor.

E. This section does not prohibit the reasonable use of a self-defense spray or foam device by a person in the protection of a person or property under circumstances that would justify the person’s use of physical force.

9.94.070 Carrying firearm or dangerous weapon with unlawful intent prohibited. It is unlawful for any person, with intent to use the same unlawfully against the person of another, to go armed with a pneumatic gun or dangerous weapon as defined in section 9.94.020 of this Code, whether concealed or otherwise.

9.94.080 Brandishing firearm, pneumatic gun or other dangerous weapon in public prohibited—Exceptions. A. Except as provided in subsection B of this section, a person shall not knowingly brandish a firearm or other dangerous weapon in public.

- B. Subsection A of this section does not apply to any of the following:
1. A peace officer lawfully performing his or her duties as a peace officer;
 2. A person lawfully engaged in hunting;
 3. A person lawfully engaged in target practice;
 4. A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm or other dangerous weapon.
- C. For purposes of this section, brandish means:
- a) To point or display all or part of a weapon or otherwise make the presence of the weapon known to a person in order to intimidate or induce fear in another person;
 - b) To exhibit all or part of a weapon in an angry or threatening way; or
 - c) To publicly exhibit all or part of a weapon in a context of a potentially volatile confrontation.

9.94.090 Aiming firearm—Restrictions. It is unlawful for any person within the city, without just cause, to intentionally, without malice, point or aim any firearm at or toward any other person.

9.94.100 Aiming and discharging firearm—Restrictions. It is unlawful for any person within the city, without just cause, to discharge without injury to another person, any firearm while intentionally, without malice, aiming at or toward any person.

9.94.110 Injuring persons by discharge of firearm prohibited when. It is unlawful for any person within the city to maim or injure any other person by the discharge of any firearm unintentionally, without malice, at any such person.

9.94.120 Possession or use of firearms while intoxicated prohibited—Penalties—Testing. A. An individual shall not carry, have in possession or under control, or use in any manner or discharge a firearm under any of the following circumstances:

1. The individual is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
2. The individual has an alcohol content of eight one-hundredths (0.08) or more grams per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.
3. Because of the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, the individual's ability to use a firearm is visibly impaired.

B. An individual who violates subsection A. is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than one hundred dollars (\$100.00) for carrying or possessing a firearm, or both, and not more than five hundred dollars (\$500.00) for using or discharging a firearm, or both.

C. A peace officer who has probable cause to believe an individual violated subsection A. may require the individual to submit to a chemical analysis of his or her breath, blood or urine. However, an individual who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not required to submit to a chemical analysis of her or her blood.

D. Before an individual is required to submit to a chemical analysis under subsection C., the peace officer shall inform the individual of all of the following:

1. The individual may refuse to submit to the chemical analysis, but if he or she refuses, the officer may obtain a court order requiring the individual to submit to a chemical analysis.
2. If the individual submits to the chemical analysis, he or she may obtain a chemical analysis from a person of his or her own choosing.

E. The failure of a peace officer to comply with the requirements of subsection D. does not render the results of a chemical analysis inadmissible as evidence in a criminal prosecution for violating this section, in a civil action arising out of a violation of this section, or in any administrative proceeding arising out of a violation of this section.

F. The collection and testing of breath, blood or urine specimens under this section shall be conducted in the same manner that breath, blood or urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923.

G. This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section in lieu of being charged with, convicted of, or sentenced for the violation of this section.

9.94.130 Possession of firearm by person less than eighteen years of age prohibited when. It is unlawful for any person within the city who is less than eighteen (18) years of age to possess a firearm in public except under the direct supervision of a person eighteen (18) years of age or older.

9.94.0140 Carrying dangerous weapons or carrying dangerous weapons in a motor vehicle prohibited. A. It is unlawful for any person to carry a pneumatic gun or dangerous weapon, as defined in section 9.94.020 of this Code, on his or her person; or within or upon any vehicle, concealed or otherwise, in or upon the public streets, alleys, public shopping centers or places of business frequented by the public or public parks, or on property of any school or college, whether public, private or parochial, locations of religious worship open to the public, or any other public place in the city. It is unlawful for any person to transport a pneumatic gun or dangerous weapon, other than a firearm in or upon a motor vehicle, unless the dangerous weapon is either carried in the trunk of the vehicle or inaccessible from the interior of the vehicle.

B. It is unlawful for any person to carry a pistol concealed on or about his or her person, or whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed

by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license.

9.94.150 Concealed pistol license; possession; disclosure to peace officer; violation; penalty; notice to department and issuing board; seizure; forfeiture; ‘peace officer’ defined. A. An individual who is licensed by this state to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology.

B. An individual who is licensed by this state to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology shall show both of the following to a peace officer upon request by that peace officer

- (a) His or her license to carry a concealed pistol.
- (b) His or her driver license or Michigan personal identification card.

C. An individual licensed by this state to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology and who is stopped by a police officer shall immediately disclose to the police officer that he or she is carrying a pistol or a portable device that uses electro-muscular disruption technology concealed upon his or her person or in his or her vehicle.

D. An individual who violates subsection (A) or (B) is responsible for a civil infraction and may be fined not more than \$ 100.00.

E. An individual who violates subsection (C) is responsible for a civil infraction and may be fined not more than \$ 500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

F. If an individual is found responsible for a civil infraction under this section, the court shall notify the department of state police and the county clerk that issued the license of that determination.

G. A pistol or portable device that uses electro-muscular disruption technology carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol or portable device that uses electro-muscular disruption technology under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the police department. If the individual displays his or her license or documentation to an authorized employee of the police department within the 45-day period, the police department shall return the pistol or portable device that uses electro-muscular disruption technology to the individual unless the individual is prohibited by law from possessing a firearm or portable device that uses electro-muscular disruption technology. If the individual does not display his or her license or documentation within the 45-day period, the pistol or portable device that uses electro-muscular disruption technology is subject to forfeiture as provided in section state law. A pistol or portable device that uses electro-muscular disruption technology is

not subject to immediate seizure under this subsection if both of the following circumstances exist:

- (a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.
- (b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

9.94.160 Transportation or possession of loaded firearm other than pistol in or upon motor vehicle prohibited. Except as otherwise permitted by state or federal law, it is unlawful for any person to transport or possess a loaded firearm, other than a pistol, in or upon a motor vehicle.

9.94.170 Transportation or possession of firearm other than pistol or pneumatic gun in or upon motor vehicle—Restrictions. Except as otherwise permitted by state or federal law, it is unlawful for any person to transport or possess a firearm, other than a pistol, in or upon a motor vehicle, unless the firearm is unloaded and is one (1) or more of the following:

- A. Taken down;
- B. Enclosed in a case;
- C. Carried in the trunk of the vehicle;
- D. Inaccessible from the interior of the vehicle.

9.94.180 Possession of firearm in designated establishments prohibited—Exceptions.

A. Except as provided in subsection B. of this section, it is unlawful for any person to possess a firearm on the premises of any of the following:

- 1. A depository financial institution or a subsidiary or affiliate thereof;
- 2. A church or other house of religious worship;
- 3. A school;
- 4. A court;
- 5. A theater;
- 6. A sports arena;
- 7. A day care center;
- 8. A hospital;
- 9. An establishment licensed under the Michigan Liquor Control Act, Act. No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.68 of the Michigan Compiled Laws.

B. This section does not apply to any of the following:

- 1. A person who owns, or is employed by or contracted by, an entity described in subsection A. of this section if the possession of that firearm is to provide security services for that entity;
- 2. A peace officer;
- 3. A person licensed by the State of Michigan or another state to carry a concealed weapon;

4. A person who possesses a firearm on the premises of an entity described in subsection A. of this section if that possession is with the permission of the owner or an agent of the owner of that entity.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

The above ordinance was passed at the regular meeting of the Council of the City of Livonia held Monday, February 27, 2017, at 7:00 p.m.

Susan M. Nash, City Clerk

The foregoing ordinance was authenticated by me on this 28th day of February, 2017.

Dennis K. Wright, Mayor

Approved as to form:

Donald L. Knapp, Jr., City Attorney
Dated: February 28, 2017