

**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE  
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending Chapter 9.24,	]	
Weapons and Fireworks, of the Independence	]	Council Bill #2013-06
Municipal Code and Declaring an Emergency	]	

**ORDINANCE NO. 1522**

**WHEREAS**, the laws of the State of Oregon limit cities' ability to regulate possession of firearms, with certain exceptions; **AND**

**WHEREAS**, City officers have been trained in and are enforcing per the state statutory limits; **AND**

**WHEREAS**, the Council desires to update the Independence Municipal Code to better reflect State law, **NOW THEREFORE**,

**THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:**

Section 1. Findings. The above findings are hereby adopted as support for the Council's following acts and amendments.

Section 2. Repeal and Replace. IMC Chapter 9.24, entitled "Weapons and Fireworks" is hereby repealed and replaced with the following:

"Chapter 9.24 WEAPONS AND FIREWORKS

**§9.24.1 Possession of firearms.**

A. As used in this chapter, "firearm" means a pistol, revolver, gun, rifle, including a miniature weapon, spring gun, air gun, BB gun or other weapon which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air, jet or rocket propulsion.

B. It is unlawful for any person to possess or carry a loaded firearm in places within the City to which the general public has access, including but not limited to hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

C. The prohibitions of subsection B do not apply to or affect:

1. A law enforcement officer in the performance of official duty;  
A member of the military in the performance of official duty;
3. A person licensed to carry a concealed handgun;
4. A person authorized to possess a loaded firearm while in or on a public

building under subsection E of this section;

5. An employee of the United States Department of Agriculture, acting within the scope of employment, who possess a loaded firearm in the course of lawful taking of wildlife;

6. Any person authorized by permit of the chief of police to possess or discharge a firearm;

7. The possession of a bow and arrow in an archery range duly established and supervised as a part of a formal program of education by any recognized institution of learning;

8. Persons authorized by written permission of the chief of police to discharge blank ammunition for a lawful purpose; or

9. Hunters using the Riverview Park dock facility as access for boat hunting.

D. It is unlawful for any person to possess or carry a firearm, whether loaded or unloaded, or any other instrument used as a dangerous weapon, while in or on a public building within the City.

E. The prohibition of subsection D does not apply to:

1. A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting within the scope of employment;

2. A person summoned by a peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer;

3. An active or reserve member of the military forces of the State of Oregon or the United States, when engaged in the performance of duty;

4. A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun;

5. A person who is authorized by the officer or the agency that controls the public building to possess a firearm or dangerous weapon in that public building;

6. An employee of the United States Department of Agriculture, acting within the scope of employment, who possess a loaded firearm in the course of lawful taking of wildlife; or

7. Possession of a firearm on school property if the firearm:

a. Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

b. Is unloaded and locked in a motor vehicle.

F. For purposes of this section, "public building" means the following buildings as well as the grounds adjacent to each building:

1. A hospital;

2. City Hall and any city buildings or portions of buildings occupied by the City or a state agency;

3. A college or university; and

4. A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof; the grounds adjacent to the institution; and any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or

sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

#### **§9.24.2 Discharging a weapon.**

A. A person commits the offense of discharging a weapon if he or she discharges a firearm, air rifle, pellet gun, bow and arrow, sling shot, catapult or other device capable of propelling a shot, arrow or other projectile with force sufficient to cause risk of injury to person or property, within the limits of the city.

B. This section shall not apply to:

1. A person discharging a firearm in lawful defense of person or property;
2. A person discharging a firearm at a public or private shooting range, shooting gallery, or other area designed and built for the purpose of target shooting;
3. An employee of the United States Department of Agriculture, acting within the scope of employment, who possess a loaded firearm in the course of lawful taking of wildlife;
4. A peace officer who discharges a firearm in the line of the official duty;
5. The discharge of an arrow in an archery range duly established and supervised as a part of a formal program of education by any recognized institution of learning;
6. Adult persons (age 18 years or older) utilizing a pellet gun to euthanize a Nutria which has been caught in a trap on private property, and with permission of the property owner. Persons so discharging a weapon under this exemption must first notify the Independence Police Department to advise their name, location and approximate time they will be using the weapon.

#### **§9.24.3 Concealed weapons.**

A. Except as provided in ORS 166.240, 166.260, 166.274, 166.291, 166.292, or 166.410 to 166.470, no person shall carry concealed about the person's person a revolver, pistol or other firearm; any knife other than an ordinary pocket knife; any dirk, dagger or stiletto; any metal knuckles; or any other weapon by the use of which injury could be inflicted upon the person or property of another. For purposes of this section, an "ordinary pocket knife" is one with a maximum blade length of three and one-half inches, which is not a switchblade or spring-blade knife.

B. Except as provided in ORS 166.240, 166.260, 166.274, 166.291, 166.292, or 166.410 to 166.470, no person shall possess a handgun that is concealed and readily accessible to the person within any vehicle.

1. A handgun is "readily accessible" if it is located within the passenger compartment of the vehicle.
2. If a vehicle, other than a vehicle described in subsection 3, has no storage location that is outside the passenger compartment of the vehicle, a handgun is not readily accessible if:

- a. The handgun is stored in a closed and locked glove compartment, center console or other container; and
- b. The key is not inserted into the lock, if the glove compartment, center console or other container unlocks with a key.
- 3. If a vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily accessible if:
  - a. The handgun is in a locked container within or affixed to the vehicle; or
  - b. The handgun is equipped with a trigger lock or other locking mechanism that prevents the discharge of the firearm.
- C. "Handgun" means any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

#### **§9.24.4 Fireworks.**

The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now in effect are adopted by reference and made a part of this chapter: *ORS 480.110, 480.120, 480.130, 480.140(1), 480.150.*

Section 3. Emergency Declared. This ordinance being necessary for the immediate preservation of the public peace, health and safety of the City of Independence, an emergency is hereby declared to exist and this Ordinance shall be effective immediately upon passage.

First Reading to the Council, this 13<sup>th</sup> day of August, 2013.

Second Reading to the Council, this 13<sup>th</sup> day of August, 2013.

Adopted, this 13<sup>th</sup> day of August, 2013.

Signed by the Mayor this 13<sup>th</sup> day of August, 2013.

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MAYOR JOHN McARDLE

ATTEST:

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Karin Johnson, MMC, City Recorder