

ORDINANCE NO.: 23-2021
INTRODUCED BY: Lentine

AN ORDINANCE AMENDING SECTION 549.01 "DEFINITIONS," AND SECTION 549.07 "UNLAWFUL TRANSACTIONS IN WEAPONS," OF CHAPTER 549 OF THE CODIFIED ORDINANCES TO REMOVE CUTTING INSTRUMENTS FROM THE DEFINITION OF "DEADLY WEAPONS", UNLESS USED AS A WEAPON, AND TO REPEAL THE BAN ON SWITCHBLADE KNIVES, SPRINGBLADE KNIVES, GRAVITY KNIVES, OR SIMILAR WEAPONS.

WHEREAS, the City has all powers of home rule which may now or hereafter lawfully be possessed or exercised by municipalities under the laws of the state of Ohio, including the power to make regulations for the safety, health and welfare of its citizens and all those who work in and visit the City;

WHEREAS, providing for the regulation of the weapons within the City will further the protection of the public safety, health and welfare;

WHEREAS, the Chief of Police has recommended to this Council the amendment of Codified Ordinance Sections 549.01 and 549.07 to conform to recent revisions to the state of Ohio's knife law repealing the ban on the manufacture and sale of "switchblade," "springblade" and "gravity" knives, and removing knives, razors or cutting instruments from the definition of "deadly weapon", unless used as a weapon;

WHEREAS, this Council desires to amend Sections 549.01 and 549.07 as recommended by the Chief of Police;

NOW, THEREFORE, Be It Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1. Section 549.01, "Definitions," is hereby amended to provide as follows:

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon, and does not include any knife, razor or cutting instrument if the instrument was not used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to,

the representations and actions of the individual exercising control over the firearm.

- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. (A.O.)
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a). (Ord. 67-2019. Passed 6-25-19.)
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) ~~"Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.~~
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (h) hereof:
 - (1) Any automatic or sawed-off firearm, **or zip-gun or ballistic knife**;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, picretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting

explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;

(5) Any firearm muffler or suppressor;

(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(hk) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection **(hk)(3)** hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.

(6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.

(A.O.)

(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a). (Ord. 67-2019. Passed 6-25-19.)

(ml) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps,

safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. “Explosive” does not include “fireworks”, as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

(am) (1) “Concealed handgun license” or “license to carry a concealed handgun” means, subject to subsection (am)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(en) “Valid concealed handgun license” or “valid license to carry a concealed handgun” means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

(po) “Misdemeanor punishable by imprisonment for a term exceeding one year” does not include any of the following:

- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
- (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

(ep) “Alien registration number” means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien’s permanent resident card and may also be commonly referred to as the “USCIS number” or the “alien number”.

(rg) “Active duty” has the same meaning as defined in 10 U.S.C. 101.

(ORC 2923.11; A.O.)

(sr) (1) "Law enforcement officer" means any of the following who is employed, commissioned, disposed, appointed, or elected in a capacity, a political subdivision of this state, or an agency, department, or instrumentality of this state or a political subdivision of this state:

- A. Any law enforcement officer, as defined in section 2901.01 of the Revised Code;
- B. Any peace officer, as defined in section 2935.01 of the Revised Code;
- C. Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code.

(2) For purposes of the Revised Code, both of the following apply regarding a law enforcement officer who, by virtue of the officer's employment, commissioning, disposition, appointment, or election as that law enforcement officer, has a responsibility to enforce all or certain laws:

- A. The officer holds public office on a continuing basis and has a continuing duty to enforce those laws.
- B. The officer is always on duty, regardless of whether the officer is, or is not, officially within work hours or officially on the clock. (ORC 9.69; Ord. 67-2019. Passed 6-25-19.)

Section 2. Section 549.07, "Unlawful Transactions in Weapons," is hereby amended to provide as follows:

549.07 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance;
- (2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (a) of this section;
- (3) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;
- (4) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;
- (5) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;
- (6) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy,

blackjack, or sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon:

- (7) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (8) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (a)(3), (4), and (5) of this section do not apply to any of the following:

- (1) A law enforcement officer who is acting within the scope of the officer's duties;
- (2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section.

(c) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. A violation of division (a)(1) or (2) of this section is a felony of the fourth degree. A violation of division (a)(3), (4), or (5) of this section is a felony of the third degree. A violation of division (a)(3), (6) or (4) (7) of this section is a misdemeanor of the second degree. A violation of division (a)(5) (8) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.
- (2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.
- (3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

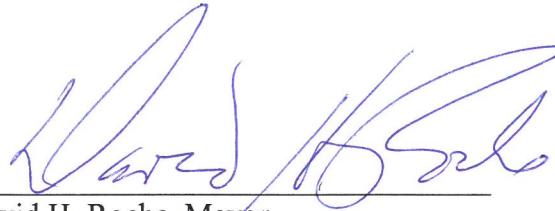
(Ord. 67-2019. Passed 6-25-19.)

Section 3. Existing Section 549.01, "Definitions," and existing Section 549.07, "Unlawful Transactions in Weapons," of the Codified Ordinances of the City of Richmond Heights are hereby repealed.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance shall take effect and be in force at the earliest time permitted by law.

PASSED: April 27, 2021

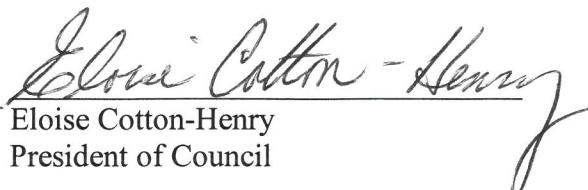


David H. Roche

David H. Roche, Mayor

APPROVED: April 27, 2021

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council



Eloise Cotton-Henry
President of Council