

ORDINANCE NO. 15183

FILE OF CITY COUNCIL

BILL NO. 3 - 2015

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January 21, 2015

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AN ORDINANCE

Amending Article 734, Weapons and Article 951, Park Regulations, of the Codified Ordinances, in regard to provisions governing weapons within the City of Allentown.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION 1. That Article 734, Weapons, be amended to read as follows:

**ARTICLE 734  
WEAPONS**

- 734.01 No Carrying or Discharging of Firearms or Weapons
- 734.02 Exceptions
- 734.03 Police Action Against Violators
- 734.04 Reserved
- 734.05 ~~Failure to Report Lost or Stolen Firearm (Reserved)~~
- 734.98 Severability
- 734.99 Penalty

Discharge of Weapons – 3<sup>rd</sup> Class §2403 (26) (53 P.S. §2403 926)  
Uniform Firearms Act – 18 P.a. C.S.A. §6101 *et seq.*

**734.01 NO CARRYING OR DISCHARGING OF FIREARMS OR WEAPONS**

- A. No person shall use, carry or discharge ~~firearms of any kind~~, air rifles, spring guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety upon any property owned by the City. (9828 §1 6/19/62; 14638 §1 11/6/2008)
- B. No person shall use, carry or discharge air rifles, spring guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety within the limits of the City. (14638 §1 11/6/2008)
- C. No person shall unlawfully discharge firearms of any kind, ~~air rifles, spring guns, bows and arrows, slings or any other forms of weapons~~ potentially inimical to wildlife and dangerous to human safety within the limits of the City or upon any property owned by the City. (14638 §1 11/6/2008)

### 734.02 EXCEPTIONS

A. Section 734.01 of this Article shall not apply at indoor or outdoor ranges approved for the firing or discharge of the aforementioned weapons ~~or to licensed hunters carrying such weapons upon leaving or returning to the City from lawful hunting beyond the City limits.~~ (9828 §2 6/19/62;-14638 §1 11/6/2008)

B. Notwithstanding anything contained herein, this This Article shall not apply to the lawful possession, transportation, carrying of firearms accordance with State law, 18 Pa. C.S.A. §6101 et seq. commonly known as the Uniform Firearms Act; (14638 §1 11/6/08)

C. Section 734.01 of this Article shall not apply for the lawful use of force, including deadly force, with a firearm for self-defense to protect against death, serious bodily injury, kidnapping or sexual intercourse compelled by force or threat, in accordance with applicable State law, 2011, June 28, P.L. 48, No. 10, § 1, effective in 60 days [Aug. 29, 2011], commonly known as the Castle Doctrine.

D. Notwithstanding anything contained herein, this Article shall not apply to the lawful hunting and/or trapping of game or wildlife governed by, and in accordance with, the State Game and Wildlife Code (Game Law), 34 Pa.C.S.A. §§101-2965, on property other than property owned by the City.

### 734.03 POLICE ACTION AGAINST VIOLATORS

The Chief of Police shall have the right to seize, take, possess, remove ~~or~~ and upon proper process destroy any weapons herein mentioned involved in a violation of the provisions of this Article. (9828 §3 6/19/62)

### 734.04 (RESERVED)

### 734.05 FAILURE TO REPORT LOST OR STOLEN FIREARM

~~No person who is the owner of a firearm that is lost or stolen shall fail to report the loss or theft to an appropriate local law enforcement official within 24 hours after discovery of the loss or theft. (14632 §1 10/2/08)~~

### 734.98 SEVERABILITY

If any provision of this Article or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Article which can be given effect without the invalid provision or application, and for this purpose the provisions of this Article are declared severable. (14632 §1 10/2/08)

### 734.99 PENALTY

A. Any person violating Sections 734.01, 734.02 or 734.03 of this article shall be fined not more than One Thousand (\$1,000) Dollars or imprisoned more than ninety (90) days, or both. (11995 §1 2/21/73; 13034 §5 3/6/91;14632 §1 10/2/08; 14638 §1 11/6/2008)

B. Any person who violates Section 734.05:

1. For the first violation such person shall be subject to a fine of not more than \$500.
2. For the second and subsequent violations thereafter such person shall be subject to a fine of not more than \$1000, or imprisonment for not more than 90 days, or both. (14632 §1 10/2/08; 14638 §1 11/6/2008)

SECTION 2. That Article 951.09 Firearms, Weapons, Tools of Article 951, Park Regulations be amended to read as follows:

**ARTICLE 951  
Park Regulations**

**951.09 FIREARMS, WEAPONS, TOOLS**

It shall be unlawful for any person to bring into or have in his possession in any park or recreation area:

A. ~~Any pistol or revolver or objects upon which loaded or blank cartridges may be used. Official starters, at authorized track and field events, are exempted from this restriction.~~

B. Any burglar tools.

C. ~~Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air.~~

SECTION 3. That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION 4: That this ordinance will take effect ten (10) days after final passage.

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald	X	
Jeff Glazier	X	
Daryl Hendricks	X	
Cynthia Y. Mota	X	
Julio A. Guridy, VP	X	
Ray O'Connell, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on February 4, 2015 and signed by the Mayor on February 5, 2015.



CITY CLERK

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

The Mayor's Office

- **Summary and Facts of the Bill**

The bill amends the Article 734 and 951 of the Administrative Code governing weapons in the City of Allentown.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City's Vision/Mission/Priorities**

In light of a new state law designed to give gun owners and gun rights groups a better chance at dismantling local (and illegal) firearms ordinances, the City is amending its laws to comply with the new law. By doing so, the City is likely eliminating its risk of being sued.

The new state law grants individuals and gun rights groups the legal standing to challenge local measures without proof of harm, and also allows plaintiffs to seek damages and be awarded attorney's fees.

The National Rifle Association has lauded the new state law in Pennsylvania as the strongest firearms pre-emption statute in the country.

At least 22 municipalities have already repealed their ordinances or indicated they planned to do so. Many Pennsylvania towns are facing the same threats of litigation if they do not rescind their local gun ordinances. In fact, the City of Harrisburg, PA has refused to amend its firearms law and has just become the first municipality sued under the new law.

In addition, the State Game law preempts any regulation of hunting by a municipality within its borders. This bill revises Article 734 to be consistent with State law. However, a municipality is not preempted from prohibiting hunting on property owned by the municipality. This bill does not change this. Hunting is still prohibited on all City property including, but not limited to, parks.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

There is no cost related to adopting this bill. However, there will be substantial liability if no action is taken on repealing the affected sections to comply with the new state law. The City can ill-afford a long and protracted legal fight.

**Funding Sources – Please include the following in your explanation:**

- **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

N/A

- **Priority status/Deadlines, if any**

Priority for New Year.

- **Why should Council unanimously support this bill?**

City Council should support this Bill because it will likely eliminate the risk of lawsuits and liability to the City of Allentown. At least 100 municipalities have already been placed on notice that they would face legal action unless they rescinded their firearms laws.

The conduct related to firearms in Articles 734 and 951 that are being rescinded and/or revised are still covered under the State Crimes Code. Persons illegally possessing, using or discharging firearms within the City may still be prosecuted as misdemeanors or felonies under State law. (Lost or stolen gun reporting is pre-empted by State law).

The revisions of this bill are also now in compliance with the Pa. Game Law, while still maintaining the prohibition of hunting on City owned property.