

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 646

An ordinance prohibiting possession of a loaded firearm and discharge of a firearm in a public place, regulating possession of assault weapons in public places, establishing a firearms safety training course, and imposing fees.

Multnomah County ordains as follows:

Section I. Findings

A. The proliferation of firearms poses a present and serious threat to the health, safety and security of the residents of Multnomah County.

B. Nationally, approximately 1,200 people are killed each year in accidental shootings, including 365 children. For every child killed through the negligent use of firearms, 10 are injured.

C. In Multnomah County, approximately two persons per week are killed from the intentional or accidental use of firearms.

D. The Oregon Courts have recognized that the constitutional right to bear arms does not cover all firearms and is not absolute. Advanced weapons designed for military use are not covered by the constitution (State v. Kessler). Additionally, with regard to arms that are covered by the state

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1 constitution, government can enact reasonable regulations, such
2 as regulations over the manner of possessing such arms (State
3 v. Delgado).

4 E. The Oregon Court of Appeals specifically upheld the
5 constitutionality of Portland's ordinance making it unlawful
6 for any person to carry a loaded firearm in a public place
7 (State v. Boyce, 61 Or App 662, 658 P2d 577 (1983), rev den,
8 295 Or 122).

9 F. The 1989 Oregon Legislature enacted laws (Or Laws
10 1989, ch. 839) to restrict access to firearms and authorized
11 local governments to regulate the possession of firearms and
12 ammunition in public places.

13 G. Although the City of Portland presently bans
14 possession of loaded firearms in public places and the
15 discharge of firearms in public, those restrictions do not
16 apply in unincorporated parts of Multnomah County. The
17 restrictions are reasonable and should apply in the
18 unincorporated area.

19 H. Assault weapons are identified as such herein because
20 their design, high rate of fire and capacity to cause injury
21 render them a substantial danger to human life and safety,
22 outweighing any function as a legitimate sports or recreational
23 firearm.

24 I. The proliferation and use of assault weapons pose a
25 present and serious threat to the health, safety and security
26 of the residents of Multnomah County.

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1 J. A recent study has shown that while assault weapons
2 account for one million of the estimated 200 million firearms
3 in America, they were used in one of every ten crimes that
4 resulted in a firearms trace last year. The increasing and
5 disproportionate use of assault weapons for criminal purposes
6 endangers both the public and law enforcement personnel.

7 K. Recognizing that assault weapons pose a threat to
8 public safety, and with the recommendation from the Bureau of
9 Alcohol, Tobacco and Firearms that assault weapons serve no
10 legitimate sporting or recreational purpose, President Bush
11 stopped the importation of certain assault weapons.

12 L. According to the Report and Recommendation of the
13 Bureau of Alcohol, Tobacco and Firearms, dated July 6, 1989,
14 the following characteristics accurately describe assault
15 weapons and distinguish them from traditional sporting rifles:
16 (1) they are semi-automatic versions of machineguns; (2) they
17 have a large magazine capacity; and (3) they have other
18 military features (such as folding/telescoping stocks,
19 well-defined pistol grips, ability to accept bayonet, and flash
20 suppressors).

21 M. Law enforcement organizations including The National
22 Sheriffs' Association, the International Association of Chiefs
23 of Police, the National Association of Police Organizations,
24 the Police Executive Research Forum, and the Fraternal Order of
25 Police have called for a national ban on the production and
26 sale of assault weapons.

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N. The 1989 legislature imposed the following administrative responsibilities on the Multnomah County Sheriff's Department:

(1) Conduct criminal and mental health background checks on purchasers of handguns from federally licensed dealers.

(2) Notify dealers by certified mail of disqualified handgun purchasers.

(3) Conduct background checks of purchasers of long guns for study purposes.

(4) Submit monthly reports to the Oregon State Police regarding concealed weapons permits issued and denied; notify Oregon State Police of disqualifications for handgun and long gun purchases.

(5) Review an increased number of applications for concealed weapons permits; document reasons for denial.

O. It is in the best interest of the citizens of the County that the costs of performing these responsibilities be borne by purchasers of guns in the County. The fees in this ordinance are intended to cover the costs imposed on the County by such purchasers.

P. There is a need for firearms training to ensure safe and informed firearms use and storage.

Section II. Definitions

A. As used in this ordinance, "assault weapon" means:

1 (1) All of the following semi-automatic rifles:

2 Avtomat Kalashnikov (AK), all models,
3 Beretta AR-70 and BM-59,
4 Calico M 100 and M 900,
5 Colt AR-15 and CAR-15,
6 Daewoo Max-1 and Max-2,
7 Fabrique Nationale FN-FAL, FN-LAR and FNC,
8 FAMAS MAS-223,
9 Galil AR and ARM,
10 Heckler & Koch HK-91, HK-93, HK-94 and PSG-1,
11 Sigarms 57 AMT and 500 Series,
12 Springfield Armory G-3, SAR-48 and BM-59 Alpine,
13 Sterling MK-6,
14 Steyr AUG,
15 Uzi Carbine and Mini Carbine,
16 Valmet M-76 and M-78

17 (2) All of the following semi-automatic pistols:

18 Calico 100-P
19 Encom MK-IV,
20 Homes MP-83,
21 Intratec TEC-9,
22 Iver Johnson Enforcer,
23 MAC-10 and MAC-11,
24 Scarab Skorpion,
25 Sterling MK-7,
26 Uzi pistol,

(3) All of the following shotguns:

Franchi SPAS-12 and LAW-12,
Striker-12 and Street Sweeper

(4) Any copy of a firearm listed in subsections (1),
(2) or (3) by the same or other manufacturers, including,
but not limited to, commercial manufacturers and private
individuals, which is identical or has slight modifications
or enhancements such as a folding or retractable stock,
different sights, case deflector for left-handed shooters,
shorter barrel, stock of different composition, larger
ammunition capacity, different caliber, or bayonet mount.

1 B. "Assault weapon", as used in this chapter, does not
2 include any of the following:

3 (1) Any firearm modified to render it permanently
4 inoperative.

5 (2) Any rifle or pistol designed or modified to
6 render it permanently not a semi-automatic firearm.

7 (3) Any handgun that is a revolver or conventional
8 semi-automatic pistol capable of receiving a magazine of no
9 more than 20 rounds.

10 (4) Any weapons which do not use fixed ammunition,
11 weapons which were in manufacture in or prior to 1898,
12 manually operated bolt action weapons, lever action
13 weapons, slide action weapons other than those specified in
14 Section A. subsection (3) above, single-shot weapons,
15 multiple-barrel weapons, semi-automatic weapons which use
16 exclusively Mannlicher- style clips, semi-automatic weapons
17 in manufacture prior to 1947, rim-fire weapons that employ
18 a tubular magazine.

19 C. Annually, the Multnomah County Sheriff shall review
20 this section and recommend to the Board of County Commissioners
21 whether any weapons should be added to or deleted from this
22 section. The Board of County Commissioners may itself initiate
23 review of the list.

24 D. "Handgun" is as defined in ORS 166.210 and means any
25 conventional pistol or revolver using a fixed cartridge
26 containing a propellant charge, primer and projectile, and

1 designed to be aimed or fired otherwise than from the shoulder
2 and which fires a single shot for each pressure on the trigger
3 device.

4 E. "Concealed handgun license" is as defined in
5 ORS 166.290.

6 F. "Firearm" is as defined in ORS 166.210 and means a
7 weapon, by whatever name known, which is designed to expel a
8 projectile by the action of smokeless powder and which is
9 readily capable of use as a weapon.

10 G. "Public place" is as defined in ORS 161.015(9) and
11 means a place to which the general public has access and
12 includes, but is not limited to, hallways, lobbies, and other
13 parts of apartment houses and hotels not constituting rooms or
14 apartments designed for actual residence, and highways,
15 streets, schools, places of amusement, parks, playgrounds, and
16 premises used in connection with public passenger
17 transportation.

18
19 Section III. Carrying and Discharge of Firearms

20 A. It is unlawful for any person to carry a firearm,
21 loaded or unloaded, in a park, public building, or school.

22 B. It is unlawful for any person in a public place to
23 carry a firearm upon the person, or in a vehicle under the
24 person's control or in which the person is an occupant, unless
25 all ammunition has been removed from the chamber and from the
26 cylinder, clip, or magazine. A person who violates this

1 section is subject to penalty even if the person did not know
2 that ammunition was in the cylinder, chamber, clip or magazine.

3 C. It is unlawful for any person to fire or discharge a
4 firearm in a public place.

5 D. In a public place, it is unlawful for any person
6 carrying a firearm upon the person, or in a vehicle under the
7 person's control or in which the person is an occupant, to
8 refuse to permit a peace officer to inspect that firearm after
9 the peace officer has identified him or herself as such.

10 E. The prohibitions in Subsections A, B, and C of this
11 Section do not apply to a peace officer acting within the scope
12 of duty or to any government employee authorized or required by
13 employment or office to carry or use firearms.

14 F. The prohibitions of A and B do not apply to any person
15 having a valid permit issued to the person by lawful authority
16 to carry firearms.

17 G. The prohibition in Subsection (C) of this section does
18 not apply to:

19 (1) Any person justified in using deadly physical
20 force under the provisions of ORS 161.195 to 161.275;

21 (2) Any person who, for the purpose of shooting
22 practice, discharges a firearm at a target upon an
23 established target range, provided that the range meets all
24 applicable laws;

25 (3) A person conducting an athletic contest who fires
26 blank ammunition toward the sky;

1 (4) Members of the armed forces firing blank
2 ammunition at military ceremonies;

3 (5) Persons authorized by permit of the Sheriff to
4 discharge blank ammunition for a lawful purpose; or

5 (6) Hunter safety instructors of the Oregon State
6 Game Commission or their pupils who are engaged in hunter
7 safety training classes sponsored by the Commission;

8 (7) Any person who discharges a firearm outside the
9 urban growth boundary while hunting in accord with state
10 law or while shooting at targets, when such activity is
11 permitted by applicable land use regulations and would not
12 endanger persons or property.

13
14 Section IV. Assault Weapons

15 A. Restrictions.

16 (1) Notwithstanding the provisions in Section III of
17 this ordinance, no person shall possess an assault weapon
18 in a public place. This restriction is subject to the
19 exceptions in paragraphs (2) and (3) of this section.

20 (2) The prohibition in paragraph (1) of this section
21 does not apply when the assault weapon is transported:

22 (a) with all ammunition removed from the chamber
23 and from the cylinder, clip or magazine,

24 (b) disassembled into its major component parts,
25 and

26 (c) locked in a gun case and, if in a vehicle,

in the trunk of the vehicle or, if the vehicle has no trunk, in an area of the vehicle least accessible to the occupants of the vehicle.

(3) The prohibition in paragraph (1) of this section does not apply to law enforcement personnel, members of the Armed Forces of the United States, or the organized militia or National Guard of this or any other state, to the extent that any such person is authorized to possess a weapon and is acting within the scope of his or her duties.

(4) No person shall possess for purposes of sale an assault weapon in the Exposition Center.

Section V. Fees

MCC 5.10.420 (M) is amended to read as follows:

- (M) (1) Concealed handgun license [weapon permit] [10.00] \$38.00
- (2) Duplication of concealed handgun license. \$10.00
- (3) Renewal of concealed handgun license . . . \$25.00
- (4) Dealer fee for background check of purchaser of a firearm. (Or Laws 1989, ch. 839). \$15.00
- (5) The sheriff's office may charge a safety and education course fee up to \$10.00.
- (6) The fee required under subsection (M)(4) shall be the obligation of the firearm dealer and shall be charged with respect to requests for background checks

1 received by the sheriff on or after the effective date
2 of Ordinance No. 646. The sheriff shall pursue
3 all appropriate legal remedies upon failure of a
4 dealer to submit a required fee, but shall not refuse
5 to conduct a background check for that reason. The
6 fee shall be annually reviewed by the Sheriff, who
7 shall report to the Board on the sufficiency of the
8 fee to cover the costs of conducting the required
9 checks.

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11 Section VI. Use of Fees

12 The fees collected under Section V of this ordinance shall
13 be placed in an account dedicated exclusively to covering the
14 costs of firearms regulation. Funds in the account shall be
15 expended for the following: (1) background checks required by
16 state law; (2) concealed weapons license investigations; and
17 (3) gun safety and education and enforcement of gun laws.

18
19 Section VII. Safety and Education Course

20 A. By July 1, 1990, the Multnomah County Sheriff's Office
21 shall develop a firearms safety and education course to be
22 available to any Multnomah County resident. The Sheriff may
23 develop the course in conjunction with nationally or state
24 recognized entities that foster education about firearms.

25 B. The course shall emphasize safe firearm use and
26 storage; laws regarding gun possession, use and transfer; the

1 gravity of harms guns may cause; methods of protecting firearms
2 from theft; and other topics as the Sheriff deems appropriate.
3 The course shall reasonably accommodate citizens who do not
4 speak English, and handicapped citizens.

5 C. A person who successfully completes the course shall
6 receive a training certificate.

7 D. The Sheriff may certify firearms safety and education
8 courses offered by other organizations and may issue training
9 certificates to course participants.

10 E. The certificate shall be issued only by the Multnomah
11 County Sheriff's Office. It shall contain a photo
12 identification and signature of the participant, a notation of
13 the type of gun, handgun or long gun, for which the participant
14 was trained, and other information as the Sheriff deems
15 pertinent.

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17 F. By January 1, 1991, the sheriff shall inform the Board
18 of the progress of the firearms safety and education course
19 with emphasis on the number of people certified and costs for
20 the program. The Board will review this section to determine
21 whether to make the course mandatory.

22
23 Section VIII. Penalties

24 A. Violation of this ordinance shall be punishable by a
25 fine up to \$500 and forfeiture of the weapon.

26 B. If, after investigation or adjudication, it is

1 determined the weapon was not possessed, carried or used
 2 unlawfully, it shall be released to the owner if the owner
 3 files a written claim with the Multnomah County Sheriff's
 4 Office.

5 C. If there is a question as to ownership or right to
 6 possession, the weapon shall be released as ordered by the
 7 court in a proceeding initiated under ORS 133.633 to 133.663 by
 8 any person claiming ownership or right to possession.

9
 10 Section IX. Severability Clause

11 If any section, subsection, sentence, clause, phrase or
 12 portion of this ordinance is for any reason held invalid or
 13 unconstitutional, that portion shall be considered a separate,
 14 distinct and independent provision, and the holdings shall not
 15 affect the validity of the remaining portions of this ordinance.

16
 17 Section X. Effective Date

18 This Ordinance, being necessary for the health, safety, and
 19 general welfare of the people of Multnomah County, shall take
 20 effect on the thirtieth (30th) day after its adoption, pursuant
 21 to Section 5.50 of the Charter of Multnomah County, provided,

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1 however, that Section IV hereof shall take effect July 1, 1990.

2 ADOPTED this 22ND day of MARCH, 1990,
3 being the date of its 2ND reading before the Board of
4 County Commissioners of Multnomah County.

5
6 (SEAL)

7
8 By  _____
9 Gladys McCoy, Chair
10 Multnomah County, Oregon

11
12 REVIEWED:

13 Sandra Ruffey for
14 Laurence Kressel, County Counsel
15 of Multnomah County, Oregon

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17 (03/22/90:4)

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