

#3793

Sponsor: Councilmember Shabazz

AN ORDINANCE TO AMEND CHAPTER 36 OF THE CITY CODE REGARDING WEAPONS AND RELATED OFFENSES.

WHEREAS, City Council has enacted the provisions of Chapter 36 of the City Code, setting forth rules and regulations with respect to weapons and related offenses and the specific provisions in the Articles and Sections of that Chapter; and

WHEREAS, the City Council deems it necessary and proper to amend the weapons and related offenses section; and

WHEREAS, this ordinance is not intended to prohibit, restrict or license the ownership, transfer, possession or transportation of firearms as those terms are used in 22 DeL.C. § 111; and

WHEREAS, the purpose of this ordinance is to continue the City's efforts towards furthering the public's safety in the City of Wilmington by giving the Wilmington Police Department an additional resource to track firearms throughout the City of Wilmington.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 36 of the Wilmington City Code is hereby amended by adding the underlined language to read as follows:

Sec. 36-168. Registration of Firearms.

(a) Definitions. The following words, terms, and phrases, when used in this section shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) Firearms mean any rifle, revolver, pistol, or shotgun capable of propelling a projectile by means of an explosive material or charge.

(2) Law enforcement officer includes any sworn police officer, the attorney general, the attorney general's deputies and investigators, the sheriff, and the sheriff's deputies, prison guards, constables, and bailiffs.

(b) Registration Required. All firearms in the City of Wilmington shall be registered in accordance with the provisions of this section no later than July 1, 2013. It shall be the duty of a person owning or possessing a firearm to cause such firearm to be registered.

(c) Exceptions. This section shall not apply to:

(1) Firearms owned or under the direct control or custody of any law enforcement officer, which were issued or approved by said officer's department, bureau, or

agency in the normal course of business need not be registered under this section.

(2) Any non-resident of the City of Wilmington who is temporarily in the City of Wilmington for longer than 7 days and brings into Wilmington any firearm of a type required to be registered shall register that firearm.

(3) This Section shall not apply to firearms which are prohibited by Section 36-158.

(4) Authorized military color guards in their official capacity shall not be registered under this section.

(d) Requisite Information. The registration form shall be filed with the Wilmington Police Department and shall include the following information:

(1) Name, date of birth, social security number; residential and business addresses, and telephone numbers of the owner(s) of the registered firearm; and

(2) Name of the manufacturer, the caliber or gauge, the model type, and the serial identification of the firearm to be registered; and

(3) The source from which the firearm was obtained; and

(4) Such other information as the Wilmington Police Department shall find reasonably necessary to effectuate the purpose of this section.

(5) The registered owner shall notify the Wilmington Police Department of any change in the information appearing on the certificate of registration within 48 hours of discovery of such change.

(e) Time of Registration. Registration of any firearm shall be completed immediately upon taking possession of the firearm. Owners of firearms who took possession of such firearms prior to the enactment of this ordinance, shall have until July 1, 2013 to register such firearms.

(f) Confidentiality. The firearm registration forms shall be maintained as confidential records of the Wilmington Police Department and shall be used for law enforcement purposes and, therefore, shall not be subject to the Freedom of Information Act disclosure.

(g) Certificate of Registration. Upon the completion of the registration form, the owner will receive a certificate of registration that shall bear a registration number as well as other information that may be necessary to identify the registered firearm and its owner.

(h) Any person carrying or having in his possession or under his custody or control any firearm shall have on his person or within his immediate custody a valid

certificate of registration for such firearm, which shall be exhibited for inspection to any law enforcement officer upon demand. Failure of any person to exhibit a certificate of registration for any firearm in his possession, custody, or control shall be cause for such firearm to be confiscated.

(j) Violations and Penalties. Anyone who violates the provisions of this ordinance shall upon conviction thereof be subject to a fine of not less than \$100.00 nor more than \$1,000.00 or imprisonment not to exceed one year, or by both such fine and imprisonment.

(k) Severability. This ordinance shall be liberally construed so as to effectuate its purposes. The provisions of this ordinance shall be severable and if any phrase, clause, sentence, or provision of this ordinance is declared to be contrary to the Constitution of the State of Delaware or of the United States or if the applicability to any person or circumstance is held invalid, the validity of the remainder of this ordinance and the applicability to any person or circumstance shall not be affected.

Sec. 36-169. Background Checks for Private Firearms Sales

(a) A background check of both the buyer and the seller shall be required by licensed dealers in connection with the sale or transfer of all firearms, including sales between private buyers and sellers. Background checks shall not be required when both the buyer and the seller of the sale or transfer are immediate family members.

1. For purposes of this section, immediate family members include: parent, grandparent, child, grandchild, sibling or spouse.

Sec. 36-170. Reporting of Lost or Stolen Firearms

The registered owner shall report a lost, stolen or destroyed firearm within 48 hours of discovery of such firearm being lost, stolen or destroyed. Individuals must file a report with the City of Wilmington Police Department, or any Delaware State Police Troop.

Sec. 36-171. Prohibits the Sale, Manufacture, Delivery and Unlawful Possession of Large-Capacity Magazines

(a) The manufacture, sale, purchase, transfer or delivery of large-capacity magazines are prohibited.

1. For purposes of this section, large-capacity magazines are defined as magazines having the capacity to accept more than 10 rounds for any handgun and more than 5 rounds for any rifle or shotgun.

(b) If a resident lawfully possesses a large-capacity magazine at the time of enactment of this ordinance, the possession of such magazine will be unlawful in (1) a

public place, and (2) within 20 feet of a firearm capable of accepting such magazine.

- 2. For purposes of this section, a public place includes highways, schools, parks, restaurants, bars, and similar locations in which residents gather.

Sec. 36-172. Military Weapons

This ordinance prohibits the manufacture, sale and delivery of military-style assault weapons. If such a weapon is lawfully purchased prior to the effective date of this ordinance continued possession with be allowed except in the areas enumerated in Section 36-171(b)(2).

Sec. 36-173. Banning Possession of a Firearm Within 1,000 Feet of a School

This ordinance prohibits the possession of a firearm within 1,000 feet of a school zone. If a registered owner lives within 1,000 feet of a school zone this ordinance does not prohibit the possession of a lawful firearm by such owner on his or her property.

SECTION 2. This Ordinance shall become effective upon passage by the City Council and approval by the Mayor.

First Reading March 7, 2013
Second Reading March 7, 2013
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as form this ____ day
of March, 2013

Assistant City Solicitor

Approved this ____ day of _____, 2013

SYNOPSIS: This Ordinance amends Chapter 36 of the Code by adding six new Sections which: (1) require all owners of firearms to cause such firearms to be registered with the City of Wilmington, (2) require all licensed firearm dealers to perform background checks on all buyers and sellers prior to sale or transfer, (3) require all registered owners to report lost or stolen firearms immediately after discovery, (4) prohibit the sale, manufacture, delivery and unlawful possession of large-capacity magazines and military-style assault weapons, and (5) ban the possession of a firearm within 1,000 feet of a school.