

ORDINANCE NO. 09-4895

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE SARASOTA CITY CODE, CHAPTER 21, OFFENSES, BY REPEALING DIVISION 2 OF SAID CHAPTER, ENTITLED "WEAPONS" IN ITS ENTIRETY, SECTIONS 21-141 THROUGH 21-144 INCLUSIVE; WHICH SECTIONS PROHIBIT THE CARRYING OF CONCEALED WEAPONS AND OTHERWISE PROVIDE FOR THE REGULATION OF FIREARMS; FINDING THAT THE SUBJECT MATTER OF SAID DIVISION 2 IS ADDRESSED BY APPLICABLE FLORIDA STATUTES; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Sarasota, Florida has determined that it was necessary to review Chapter 21 of the City Code and to amend or repeal sections that have become antiquated or legally infirm; and,

WHEREAS, Section 21-143 of the City Code provides that "No person within the City shall carry or have concealed about his or her person any dirk, pistol or other weapon, except a common pocket knife;" and,

WHEREAS, the provisions of Chapter 21, Division 2 of the City Code that purport to prohibit the carrying of concealed pistols or other firearms or to otherwise regulate pistols or other firearms have been rendered null and void by the application of Sec. 790.33, Florida Statutes, which provides in relevant part that ". . ., the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances are hereby declared null and void"; and,

WHEREAS, Section 790.01(2), Florida Statutes provides that any person who carries a concealed firearm on or about his or her person commits a felony of the third degree; punishable as provided in Sections 775.082, 775.083 or 775.084 of the Florida Statutes; and,

WHEREAS, the provisions of Chapter 21, Division 2 of the City Code that prohibit the carrying of concealed weapons other than firearms or otherwise regulate weapons other than firearms are duplicated by the provisions of

Chapter 790 Florida Statutes and are thus unnecessary and redundant provisions of the City Code; and,

WHEREAS, Sec. 790.01(1), Florida Statutes provides that any person who carries a concealed weapon (other than a firearm) or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083 of the Florida Statutes; and,

WHEREAS, Sec. 790.01(3), Florida Statutes creates an exception to the general prohibitions against carrying concealed firearms and other weapons referred to above found in subsections 790.01(1) and (2) for persons who have obtained a license to carry a concealed firearm or other weapon pursuant to Sec. 790.06 of the Florida Statutes; and,

WHEREAS, Section 21-141 of the City Code prohibits the discharge of firearms in the City except by those persons who have obtained a permit to do so from the City Commission; however, Section 21-141 has been pre-empted by Sec. 790.15 of the Florida Statutes regarding the discharge of firearms in public; and,

WHEREAS, Section 21-142 of the City Code prohibits the discharge of any air gun, spring gun or sling shot within the City except by those persons who have obtained a permit to do so from the City Commission; however, the City Commission does not issue such permits; and,

WHEREAS, Section 21-144 of the City Code provides for the disposition of weapons found upon arrested persons; however the subject matter of this section is fully addressed by the provisions of Sec. 790.08 of the Florida Statutes, entitled "Taking possession of weapons and firearms; reports; disposition; custody;" and,

WHEREAS, Section 790.33(3)(a) of the Florida Statutes provides that it is the intent of the law "to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition or components thereof;" to prohibit the enactment of such ordinances in the future and "to require local jurisdictions to enforce state firearm laws;" and,

WHEREAS, the City Attorney advises that the provisions of Chapter 21, Division 2 of the City Code are not presently being enforced and that there have been no citations issued for violations of these code provisions for at least the past five years and likely for an even longer period of time; and,

WHEREAS, the City Attorney further recommends repeal of those provisions of Chapter 21, Division 2 pertaining to firearms as explicitly pre-empted by state law and thus contrary to state law and recommends repeal of those provisions of Chapter 21, Division 2 pertaining to other weapons as unnecessarily duplicative of state law.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The Code of the City of Sarasota; Chapter 21, Offenses; Division 2, Weapons; (Sections 21-141 through 21-144) is hereby repealed: (Repealed text is shown in strike though format.)

~~Sec. 21-141. Discharging firearms; permit required.~~

~~No person shall discharge any gun, pistol or other firearm within the city; provided however, that upon written application to it the city commission may issue permits for the discharge of guns, permits, or other firearms within the city for a fixed period or periods of time and may in any such permit limit and define the conditions, hours, places where such activities shall be carried on.~~

~~Sec. 21-142. Discharging air guns, slingshots, etc; permit required.~~

~~No person shall discharge any air gun, spring gun, or slingshot within the city; provided, however, that upon written application to it the city commission may issue permits for the discharge of air guns, spring guns and slingshots within the city for a fixed period of time and may in such permit limit and define the conditions, hours and places where such activities shall be carried on.~~

~~Section 21-143. Carrying concealed weapons.~~

~~No person within the city shall carry or have concealed about his or her person any dirk, pistol or other weapon, except a common pocket knife.~~

~~Section 21-144. Disposition of weapons found upon arrested persons.~~

~~All arms or weapons found upon any person arrested shall be removed from such person and retained by the police department until after the trial of such person. If such person is convicted, the arms or weapons shall be forfeited and the chief of police shall sell the same at public sale and account for and pay over the proceeds thereof as in the case of fines collected, but if such person is acquitted the arms or weapons shall be returned to him.~~

Section 2. This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 19th day of October, 2009.

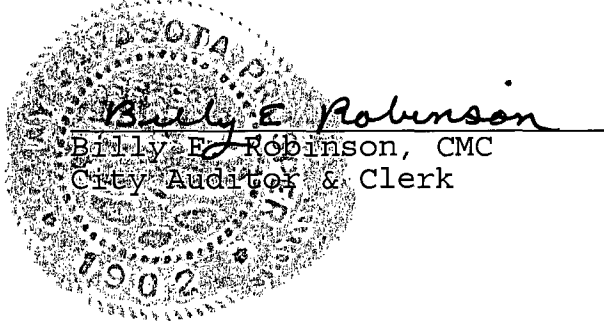
PASSED on second reading and finally adopted this 2nd day of November, 2009.

CITY OF SARASOTA, FLORIDA



Richard Clapp, Mayor

ATTEST:



Yes Mayor Clapp
Yes Vice Mayor Kirschner
Yes Commissioner Atkins
Yes Commissioner Atwell
Yes Commissioner Turner