

5/31/2005

58-O-05

AN ORDINANCE

**Amending Title 9 of the City Code to
Create a New Chapter 15,
"Air Rifles"**

WHEREAS, the City of Evanston is a home rule unit of government under Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, a home rule unit of government is authorized under said Article VII, Section 6(a) to enact legislation pertaining to the health, welfare and safety of its citizens; and

WHEREAS, the Illinois legislature has enacted the Air Rifle Act ("the Act"), 720 ILCS 535; and

WHEREAS, "Air Rifles" as defined by the Act in 720 ILCS 535/1 includes air rifles, air pistols, and pellet guns (collectively, hereinafter, "air rifles"); and

WHEREAS, the Act prohibits anyone from discharging an air rifle on the public streets, roads, highways or public lands, or any public place except on safely constructed target ranges; and

WHEREAS, the Act prohibits the possession of air rifles by persons under the age of thirteen (13) years except when in their residences or other private enclosures, when used pursuant to activities of an educational organization on a target range under the supervision of a responsible adult, or

when used on private grounds in such a manner as to prevent the projectile from passing over any space outside those private grounds; and

WHEREAS, the Act allows municipalities to impose restrictions and limitations with respect to the sale, purchase, use or possession of air rifles greater than those imposed by the Act; and

WHEREAS, the City Council of the City of Evanston finds that air rifles are frequently recovered by the Police from the possession of juveniles and adults who have used them in the commission of vandalism, accidental shootings, shootings of animals, and other offenses, that juveniles have received them from adults who have purchased them, and that law enforcement experience has demonstrated over time that air rifles, air pistols, and pellet guns routinely fall into the possession of juveniles, thereby placing such juveniles at increased risk of injury to themselves and others, and at increased risk in being involved in criminal offenses; and

WHEREAS, air rifles also pose substantial risk of injury to juveniles and adults shot with such devices, and can also be mistaken for firearms in that they are often designed as replicas of firearms, thereby presenting a danger to health, safety, and life of the citizenry and law enforcement officers; and

WHEREAS, the City Council further finds that a prohibition on the possession, discharge, use, and sales of air rifles and any similar devices in the City of Evanston would serve the public health, safety and welfare, and is

necessary to reduce or eliminate the imminent danger of harm caused by said air rifles and similar devices,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: That the foregoing recitals are found as facts and made a part hereof.

SECTION 2: That the City Code of the City of Evanston, 1979, as amended, is further amended by amending Title 9, "General Offenses", to create a new Chapter 15, "Air Rifles", to read as follows:

9-15-1: DEFINITIONS: As used in this Chapter,

(A) **"Air rifle"** means and includes any pneumatic gun, air gun, air pistol, spring gun, spring pistol, B-B gun, pellet gun, or any similar device which uses a spring, pneumatic device, compressed air or compressed gas to impel a pellet constructed of hard plastic, steel, lead, or other hard materials with a force that reasonably is expected to cause bodily harm.

(B) **"Department"** means the Evanston Police Department.

(C) **"Person"** means any individual, corporation, company, association, firm, partnership, club, society, or joint stock company.

9-15-2: POSSESSION PROHIBITED:

No person shall possess in the City of Evanston any "air rifle" as defined in Section 9-15-1.

9-15-3: SALES AND OTHER TRANSFERS PROHIBITED:

No person shall sell, exchange, loan, rent, or transfer any air rifle within the City whether with or without consideration. No business license shall be granted by the City for a purpose which includes selling air rifles.

9-15-4: DISCHARGE PROHIBITED:

No person shall discharge an air rifle within the City.

9-15-5: PUBLIC DISPLAY PROHIBITED:

It shall be unlawful to brandish or openly display any air rifle while on the grounds of any public park or other public property, or while on any public street, public alley, or other public right-of-way.

9-15-6: PEACE OFFICERS:

Nothing in this Chapter shall apply to or affect peace officers acting in the performance of their official duties.

9-15-7: SEIZURE AND REMOVAL:

Any police officer shall seize, take, remove, or cause to be removed at the expense of the owner any air rifle sold or in use in any manner in violation of this Chapter. Whenever any air rifle is voluntarily surrendered to the Evanston Police Department, the Chief of Police or his designee shall ascertain whether the air rifle is needed for evidence in any matter. If such air rifle is not needed for evidence, it shall be destroyed at the direction of the Chief of Police or his designee. A record of such destruction shall be maintained.

9-15-8: PENALTY:

(A) Any person found to have violated any of the provisions of this Chapter shall be fined not less than \$200.00 (two hundred and no/100 dollars) nor more than \$750.00 (seven hundred fifty and no/100 dollars).

(B) Upon a finding of a violation of this Chapter by an administrative hearing officer or a court of competent jurisdiction, any air rifle seized pursuant to Section 9-15-7 shall be ordered destroyed by the Evanston Police Department.

9-15-9: SEVERABILITY:

If any provision or term of this Chapter, or any application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

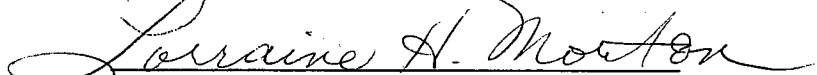
SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

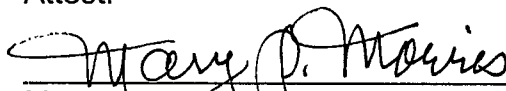
Introduced: June 13, 2005

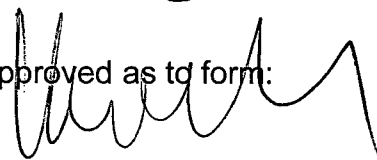
Adopted: June 27, 2005

Approved: October 27, 2005


Lorraine H. Morton, Mayor

Attest:


Mary P. Morris, City Clerk

Approved as to form:

Corporation Counsel

