

**109-O-15**

**AN ORDINANCE**

**Amending the Licensing Regulations applicable to Firearm Ranges within Title 3 of the City Code to add Application Requirements, License Conditions, Insurance Requirements, and Right of Inspection**

**SECTION 1. Legislative Statement.**

Following the enactment of Ordinance 51-O-15 "Amending Portions of the Zoning Ordinance to add a Firearm Range use and Special Use Restrictions, Amending Title 3 to Add Licensing of Firearm Ranges and Amending Title 4 with Associated Building Code Regulations to Firearm Ranges", which established specific regulations for firearm range facilities to address the zoning and placement of the facilities, construction, licensing and operational requirements.

Article VII, Section (6)a of the Illinois Constitution of 1970 states that, "a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power... to license." As a home rule unit, the City of Evanston's powers shall be construed liberally. *Scadron v. City of Des Plaines*, 153 Ill. 2d 164 (1992). This Ordinance is presumed constitutional and the burden of rebutting that strong presumption is on the party challenging the validity of the statute to clearly demonstrate a constitutional violation. *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296, 306 (2008). It is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid. *Glenview State Bank v. Village of Deerfield*, 213 Ill. App. 3d 747, 759 (2nd Dist. 1991). A court has a duty to uphold the constitutionality of a statute/ordinance when reasonably possible, and if a

statute's/ordinance's construction is doubtful, the court will resolve the doubt in favor the statute's/ordinance's validity. *Id.* (citing *People ex rel. Sherman v. Cryns*, 203 Ill.2d 264, 291 (2003)).

The City Council and City staff reviewed and considered comparable ordinances from similarly situated jurisdictions regarding firearm regulations, as well as relevant court precedent. The City Council finds that that there is a compelling governmental interest in implementing reasonable regulations on firearm ranges in the City under this Ordinance to promote the health, safety, and welfare of City residents and visitors alike. These regulations comply with the Act and recent court rulings. The firearm range operational and licensing restrictions contained herein, that amended Title 3, Chapter 32 are devoted to amend the licensing chapter for firearm ranges to add specifics related to application requirements, right of inspection, range master qualifications, liability insurance and penalty provisions for violations of the Code sections, and other regulations established to protect the health, safety and welfare of City residents and visitors.

**SECTION 2:** Title 3, Chapter 32 of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

**3-32-1. - FIREARMS RANGE LICENSE REQUIRED.**

No person or entity shall operate a firearms range in the City of Evanston without first obtaining a Firearm Range License in accordance with the provisions of this Chapter and payment of an annual Firearm Range License fee. A separate Firearms License shall be required for each firearms range location, regardless of whether such multiple establishments are operated by the same person or entity.

**3-32-2. – APPLICATION INFORMATION.**

(A) Applications for a Firearms Range License shall be made to the City Manager or his or her designee on forms prescribed and furnished by the City Manager or designee.

The City Manager or his or her designee may request additional information from an applicant including but not limited to proof of all state and federal firearm registrations and licenses.

(B) The applicant must provide detailed plans of the facility, with fully-designed architectural drawings including Mechanical/Electrical/Plumbing (“MEP”) designs, for review by the Police Department and Building and Inspection Services Division of the Community Development Department. All safety, environmental, security, ventilation and noise pollution concerns must be satisfactorily addressed and meet the approval of the Police Department, Fire Department, and the Building and Inspection Services Division, before an application will be processed.

(C) All applications shall be accompanied by a criminal background investigation of all owners, operators, range masters, officers, managers, members, partners and shareholders of the proposed firearms range. Failure of any party to agree to submit to such an investigation will be considered automatic grounds for denial of a license. The results of the criminal background investigation may be grounds for denial of a license.

(D) The applicant shall submit a safety plan to the Building and Inspection Services Division Manager in a form and manner prescribed by the Division. The safety plan shall designate a range master. After review of the proposed safety plan in consultation with the Police Department and Fire Department, and any other appropriate department, the Building and Inspection Services Manager shall either approve or deny the safety plan within 30 days of its submission. During the 30-day review period, the Building and Inspection Services Manager may consult with the applicant to recommend amendments to the proposed plan. If the Building and Inspection Services Manager denies a safety plan, he/she shall state, in writing, the basis for such denial. The Building and Inspection Services Manager shall notify the City Manager of such approval or denial.

(E) Every safety plan shall include a site plan and a floor plan of the proposed facility with provisions that address: (i) the installation and maintenance of adequate exterior lighting; (ii) the installation and maintenance of interior and exterior surveillance cameras installed at each building; (iii) the installation of an alarm system; (iv) protocols for the safe display of and storage of firearms and ammunition; and (v) the employment of adequately trained personnel and qualifications of the range masters. The failure to submit an approved safety plan as required by this section shall be grounds to deny an application for a license under this chapter or renewal thereof.

(F) Recordings from surveillance cameras required by this section (i) shall be maintained for not less than 30 days and (ii) shall be made available to the Police Department.

(G) The safety plan shall outline the responsibilities of a range master. For purposes of this firearm range license a “range master” means the individual charged with the responsibility of ensuring that the range activities adhere to all rules and

regulations of the safety plan for the protection of the health and safety of persons at the firearm range.

(H) The licensee shall obtain all necessary permits, including a public way use permit if applicable; provided that notwithstanding any other provision of the code to the contrary, no fee for a public way use permit will be imposed when the permit is for any surveillance camera installed pursuant to this subsection solely because the camera or its wiring is in any portion of the public way.

(I) Any proposed change to the approved safety plan shall be submitted to the Building and Inspection Services Manager, prior to the implementation of such change. The Building and Inspections Services Manager shall approve or deny the proposed change within 30 days.

(J) The licensee shall keep a copy of the approved safety plan at the licensed premises and make it available upon request for inspection by members of the department or the Police Department.

(K) No license may be issued or renewed unless the Building and Inspection Services Manager approves the applicant's or licensee's safety plan.

(L) Every licensee shall comply with the safety plan, as approved by the Building and Inspection Services Manager.

(M) The failure to adequately implement, maintain, or adhere to the provisions of the approved safety plan under this section shall be grounds for suspension or revocation of the license and shall be grounds for the city to recover its costs resulting from such failure under Section 3-32-7, in addition to any appropriate penalties assessed under Section 3-32-17.

### **3-32-3. – QUALIFICATIONS FOR LICENSES**

No license shall be issued under this chapter if the applicant, the manager, range master, or any employee:

- (A) Is under 21 years of age;
- (B) Has ever been convicted of a felony;
- (C) Has ever been convicted of a misdemeanor involving a firearm, or any other violation of law concerning the manufacture, use, possession or sale of firearms;
- (D) Does not possess a valid FOID card; or
- (E) Has within the previous five years submitted false or misleading information in connection with any application for a license relating to the sale or possession of firearms.

**3-32-4. – RANGE MASTER QUALIFICATIONS**

- (A) Every range master shall demonstrate and prove to the City's satisfaction that they:
- (1) have completed a course in firearm safety and instruction;
  - (2) are familiar with applicable federal, state and local laws and regulations pertaining to firearms;
  - (3) have experience in range operations and management; and
  - (4) are proficient in firearm utilization and instruction.
- (B) A range master is responsible:
- (1) for the operation and maintenance of the firearm range;
  - (2) to inspect all firearms and ammunition for safe functions and operation;
  - (3) to ensure all firearms and ammunition at the firearm range facility are stored in compliance with all applicable laws and rules and regulations; and
  - (4) to ensure that no firearms or ammunition which cannot be safely discharged in the firearm range due to the range's design and construction are not discharged in the firearm range.

**3-32-5. – STANDARDS OF OPERATION**

- (A) No firearm shall be discharged in the firearm range if the type of firearm or caliber of ammunition is not suitable or safe for use at the firearm range. The discharge of firearms shall only be permitted in the practice area of the firearm range. The range master shall inspect all firearms and ammunition, whether supplied by the licensee or brought by a firearm range patron to the firearm range facility, to determine whether the firearm and ammunition are safe and in good operating condition and are of a caliber appropriate for the design of the practice area.
- (B) No person under the age of 18 shall be permitted in the firearm range facility. The licensee shall require every firearm range patron to provide a driver's license or other government-issued identification showing the person's name, date of birth, and photograph.
- (C) No person, other than the range master, licensee, manager or employee shall be permitted beyond the firing line, as defined in Section 4-4-2, Appendix A of the Building Code; provided that this provision does not apply to any independent contractor hired to clean or maintain the firearm range facility. All doors, gates and entrances between the firing points and backstop shall be securely locked at any time that a person is engaged in shooting on the range.
- (D) No person shall be permitted to enter or remain at the firearm range facility if he or she appears to the range master to be under the influence of alcohol, narcotics, or

controlled substances, or if he or she is engaging in conduct which the range master reasonably deems to pose a hazard to himself or herself or others.

(E) The licensee shall not permit any person, including a firearm range patron, to possess or discharge a firearm at the firearm range, if the person does not have a valid FOID card or valid Concealed Carry License (CCL), if required to do so.

(F) No other weapons, other than firearms, shall be discharged in the firearm range.

(G) Protective eye wear and hearing protection shall be provided to every range master, manager, employee and firearm range patron while such person is located in the firearm range. The protective eye wear and hearing protection must be worn at all times when a person in the firearm range is discharging a firearm.

(H) A manager must be in charge of the firearm range facility at all times other than those times when an individual licensee is in charge.

(I) Every firearm range facility shall be in compliance with the applicable building, environmental and fire code requirements, including any rule or regulations promulgated thereunder.

### **3-32-6. INSURANCE**

The licensee shall obtain and keep current at all times throughout the duration of the license period, liability insurance for the operation of the premises described in such application or license in the aggregate amount of Three Million Dollars (\$3,000,000), issued by an insurer authorized to insure in Illinois. The insurance policy required by this section shall be for a term of at least twelve (12) months, and shall be co-extensive with the first twelve (12) months of the applicable license period. Thereafter, the licensee shall continue to maintain such insurance policy in full force and effect for the duration of the two-year license period. The licensee shall keep proof of the required insurance at the firearm range facility at all times and, upon demand, shall produce such proof for inspection by an authorized city official. Each policy of insurance required under this section shall include a provision requiring thirty (30) days' advance notice to the Building and Inspection Services Division prior to termination or lapse of the policy. Failure to comply with this section shall be grounds for the suspension or revocation of the license for a single offense in accordance with the requirements of Section 3-32-5 of this Code.

### **3-32-7. – GROUNDS FOR DENIAL, NON-RENEWAL, SUSPENSION OR REVOCATION.**

The City Manager or his or her designee may (i) deny an application for a license, (ii) refuse to renew a license, (iii) suspend or (iv) revoke a license, if it is determined that the applicant, licensee, or an owner, officer or manager of a licensee:

(A) Was convicted of any crime under the laws of the United States or any state or territory therein that is either: (a) a felony, (b) a misdemeanor, pertaining to battery, dishonesty or directly related to the use, purchase, sale, or possession of

firearms or other weapons, or (c) an offense listed in Article 24 of the Illinois Criminal Code, 720 ILCS 5/24-1 et. seq., or (d) a violation of 430 ILCS 65 or 430 ILCS 66. Conviction, as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere;

- (B) Made fraudulent, false or misrepresentative statements, or material omissions, in the application for the license or in any related license or permit.
- (C) Is indebted to the City for (1) required fees, (2) costs incurred by the City in relation to the individual or entity, or (3) outstanding fines or penalties; or
- (D) Has not complied with applicable codes, ordinances, statutes, laws or rules and regulation of the City, State of Illinois, or United States Federal Government.

### **3-32-8. – TEMPORARY SUSPENSION**

In the event the City Manager finds that there is sufficient evidence that indicates the occurrence of criminal behavior, or a practice that would constitute a danger to the public, he or she may temporarily suspend a license without a hearing simultaneously with the notification of the right to a hearing provided for in City Code Section 3-32-~~6~~10. In the event that the City Manager or his or her designee suspends a license, a hearing must be held within thirty (30) calendar days after the suspension has occurred.

### **3-32-9. – CONTENTS AND SERVICE OF NOTICES**

- (A) *Contents.* All notices required to be given in accordance with this Chapter shall be in writing, setting forth the reasons for the denial, suspension, non-renewal or revocation of the license. The notice shall inform the applicant or licensee that the applicant or licensee has the right to request a hearing before the City Manager.
- (B) *Service.* All notices shall be sent by certified mail, return receipt requested, to the applicant or licensee specified on the application or license. Notice shall be considered given on the date such notice is mailed.

### **3-32-10. – HEARINGS**

In addition to the provisions contained in this Chapter, the City Manager or his or her designee may establish rules and regulations for the conduct of a hearing relating to the revocation or suspension of a license under this section. The City Manager or his or her designee shall send notice of intent to revoke a license issued under this Chapter. A license shall not be revoked unless the licensee has had an opportunity to present evidence or has had an opportunity for evidence to be presented on his behalf. The City Manager or his or her designee shall issue a written order after the hearing. Such written order shall be sent to the licensee or in accordance with the notice provisions of City Code Section 3-32-~~5~~9. If within ten (10) days of the notice, the licensee does not request a hearing in writing, the license shall be revoked.

**3-32-11. – FEES AND INSPECTION**

Fees for a Firearm Range License under this Chapter shall be two hundred dollars (\$200.00) per lane per year. Fees for commercial inspection of the premises shall be one hundred dollars (\$100.00) per firearm range and assessed for each separate inspection. Every firearm range facility shall be open at all reasonable times for inspection by the City.

**3-32-12. – TRANSFER**

No license issued or granted under this Chapter shall be assigned or transferred to any other person or corporation other than to the person to whom such license was issued. No individual or entity other than the licensee shall act or do business under such license.

**3-32-13. – CEASE AND DESIST**

The City Manager or his or her designee is authorized to issue a cease and desist order to any person owning or operating a firearms range, or acting as a firearms seller in the City, as defined by the City Code, that is not properly permitted and affiliated with a licensed firearms range. The City Manager or his or her designee is authorized to issue a cease and desist order to any person or entity operating a firearms range or acting as a firearms seller without being properly licensed.

**3-32-14. – LOCATION**

No firearms range may be located within 350 feet of any R1, R2, R3 district, or within 350 feet of any school, child daycare facility, or public park, in any zoning district as measured from lot line to lot line.

**3-32-15. – HOURS OF OPERATION**

Permitted hours of operation for a firearms range are: 10:00 a.m. to 7:00 p.m. daily.

**3-32-16. – RENEWAL OF FIREARMS RANGE LICENSE**

The Firearms Range License shall expire at the end of each City fiscal year. The Firearms Range License may be renewed based upon an application for renewal and the payment of the Firearms Range License annual fee. The City Manager or his or her designee is authorized to review a renewal request in the same manner as an initial application.

**3-32-17. – PENALTY**



(A) Except where otherwise specifically provided, any person violating any of the provisions of this chapter, or any rule or regulation promulgated thereunder, shall be fined \$2,500 for each offense. A separate and distinct offense shall be held to have been committed each day any person continues to violate any of the provisions hereof.

(B) Every act or omission constituting a violation of this chapter by any officer, director, manager, employee or agent of the licensee shall be deemed to be the act or omission of such licensee and such licensee shall be liable for all penalties and sanctions provided by this Article in the same manner as if such act or omission had been done or omitted by the licensee personally.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 5:** This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.


**SECTION 6:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: September 15, 2015

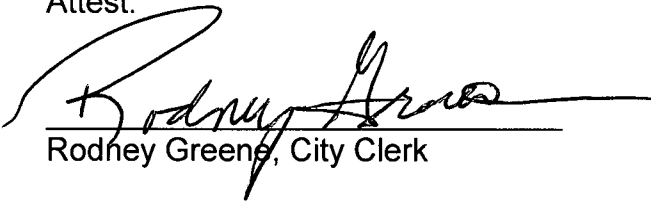
Approved:

Adopted: September 21, 2015


September 25 2015

  
Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Approved as to form:

  
W. Grant Farrar, Corporation Counsel