

ORDINANCE NO. 2016-07-017

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, AMENDING BELLINGHAM MUNICIPAL CODE TITLE 10.30 TO REPEAL BMC 10.30.020 WHICH PROHIBITS THE POSSESSION, SALE, OR USE OF TASERS, STUN GUNS, AND SIMILAR ELECTRONIC OR ENERGY DEVICES OR WEAPONS; ADOPTING BMC 10.30.015 PROHIBITING THE UNLAWFUL DISPLAY OF WEAPONS INCLUDING ELECTRONIC CONTROL DEVICES; AND AMENDING BMC 10.30.005 BY REPEALING THE ADOPTION OF RCW 9.41.270 BY REFERENCE.

WHEREAS, the City of Bellingham is authorized to exercise its constitutional police powers by enacting laws to protect the public health, safety, and welfare;

WHEREAS, the City of Bellingham, through BMC 10.30.020, currently prohibits the possession, sale, or use of electronic control devices such as tasers and stun guns;

WHEREAS, recent developments in the law have called general prohibitions on possessing electronic control devices into question;

WHEREAS, the City of Bellingham can regulate potential dangers to the public, health safety, and welfare presented by electronic control devices in an alternative manner other than a general prohibition on possession, sale or use;

WHEREAS, existing state law currently prohibits the unlawful display of a weapons through RCW 9.41.270;

WHEREAS, the City of Bellingham can protect the public health, safety, and welfare in regards to electronic control devices by adopting an ordinance that is substantially similar to RCW 9.41.270 but that expressly states it is unlawful to carry or display an electronic control device in a manner that manifests an intent to intimidate another or warrants the alarm for the safety of other persons;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Section 10.30.020 of the Bellingham Municipal Code shall be repealed in its entirety as follows:

~~10.30.20 Stun guns, tasers, and similar devices~~

~~A. Possession, Sale or Use Prohibited. It shall be unlawful for any individual, person, firm, corporation, or similar entity to sell, give, lend, rent, or otherwise transfer to any other individual, person, firm, corporation, or similar entity a stun gun, TASER, or similar electronic or energy device or weapon which, upon coming in contact with a person, is capable of inflicting injury or an electric or energy shock to such a person. It shall further be unlawful for~~

~~any person to possess, fire, or discharge such electronic or energy device or weapon within the Bellingham city limits.~~

~~B. Exceptions. This section shall not apply to any member of the Bellingham police department or other authorized law enforcement officer while in the performance of his or her official duties or to any electronic or energy device or weapon designed solely and exclusively for animal control purposes.~~

~~C. Penalties. Any violation of this section is a misdemeanor.~~

Section 2. Bellingham Municipal Code Section 10.30.015 is added as follows:

10.30.015 Weapons apparently capable of producing bodily harm—Unlawful carrying or handling—Penalty—Exceptions.

(1) It shall be unlawful for any person to carry, exhibit, display, or draw any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, electronic control device, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

(2) Any person violating the provisions of subsection (1) above shall be guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1) of this section, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

(3) Subsection (1) of this section shall not apply to or affect the following:

(a) Any act committed by a person while in his or her place of abode or fixed place of business;

(b) Any person who by virtue of his or her office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, while in the performance of such duty;

(c) Any person acting for the purpose of protecting himself or herself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by a third person;

(d) Any person making or assisting in making a lawful arrest for the commission of a felony; or

(e) Any person engaged in military activities sponsored by the federal or state governments.

(4) In this section "electronic control device" means any electric or other conductive energy device such as a Taser or stun gun or other device designed to deliver an electronic charge or current that is apparently capable of injuring, immobilizing, or inflicting pain on an individual.

Section 3. Bellingham Municipal Code Section 10.30.005 is hereby amended as follows:

10.30.005 Adoption by Reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW

9.41.230 Aiming or discharging firearms, dangerous weapons.

9.41.250 Dangerous weapons – Penalty.

~~9.41.270 Weapons apparently capable of producing bodily harm – Unlawful carrying or handling – Penalty – Exceptions.~~

9.41.300 Weapons prohibited in certain places – Local laws and ordinances – Exceptions – Penalty.

9.91.160 Personal protection spray device.

PASSED by the Council this 11th day of July, 2016.



Council President

APPROVED by me this 20th day of July, 2016.

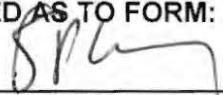


Mayor

ATTEST:


Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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