



CITY ATTORNEY COUNCIL BRIEFING MEMO

CODE AMENDMENT

July 5, 2022

Timothy R. Spencer, City Attorney *TRS*

Re: City Code Amendments to Sections 21-37, Discharge of air gun, gravel shooter, pneumatic gun, etc. and 24-2.1, Prohibition of firearms on city property.

To address concerns raised by the Virginia Department of Wildlife Resources, our office is recommending that we amend Section 21-37, Discharge of air gun, gravel shooter, pneumatic gun, etc. and Section 24-2.1, Prohibition of firearms on city property. The Virginia Department of Wildlife Resources is concerned that his clients are not exempted from these two City Code sections. They have confirmed that these proposed changes will address their concerns.

The Virginia Department of Wildlife Resources believes that they would be violating the law if they used a pneumatic gun to tranquilize a bear. I explained that Section 21-37 was a part of the City Code when in May of 2017, Department of Game and Inland Fisheries responded to a report of a bear in downtown Roanoke. A pneumatic gun was used to tranquilize the bear without incident. Despite this past practice, Virginia Department of Wildlife Resources would like our City Code to be amended before they respond to any request for services by the City of Roanoke. The language in our existing City Code is similar to the language found in the codes of City of Richmond, Henrico County, City of Hampton, City of Virginia Beach, Fairfax County and the City of Fairfax. None of these other localities carve out a specific exception for wildlife officials. However, I believe that it is in the best interest of the City to make these amendments.

Overview of Proposed Amendments

The amendments to Section 21-37, Discharge of air gun, gravel shooter, pneumatic gun, etc. and Section 24-2.1, Prohibition of firearms on city property, create specific exemptions for conservators of the peace, animal wardens and wildlife officials acting in their official capacity.

Recommended Action

Consider the proposed amendments to Section 21-37, Discharge of air gun, gravel shooter, pneumatic gun, etc. and Section 24-2.1, Prohibition of firearms on city property to create specific exemptions for conservators of the peace, animal wardens and wildlife officials acting in their official capacity.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending and reordaining Section 21-37 Discharge of air gun, gravel shooter, pneumatic gun, etc. to Chapter 21, Offenses - Miscellaneous, of the Code of the City of Roanoke (1979), as amended; and dispensing with the second reading of this ordinance by title.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Section 21-37 Discharge of air gun, gravel shooter, pneumatic gun, etc. to Chapter 21, Offense - Miscellaneous, of the Code of the City of Roanoke (1979) as amended, is hereby amended and reordained to read and provide as follows:

* * *

Sec. 21-31. Discharge of air gun, gravel shooter, pneumatic gun, etc.

As authorized by, and not inconstant with §15.2-915.4 of the Code of Virginia (1950), as amended, the follow is implemented within the City of Roanoke.

- (a) Any person who shall, anywhere within the city, discharge shot, stones, gravel, bullets or any similar thing from a gravel shooter, air gun, pneumatic gun or other similar implement shall be guilty of a Class 4 misdemeanor, unless otherwise permitted by this section.
- (b) Subsection (a) shall not prohibit the use of a pneumatic gun at a facility approved for shooting ranges, or on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.
- (c) Subsection (a) shall not prohibit the establishment of commercial or private areas designated for use of paintball guns for recreational use in accordance with all applicable requirements. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs shall be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.
- (d) As used in this section, the term, "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. The term "pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

- (e) All uses of a pneumatic gun otherwise allowed under this section by a minor below the age of sixteen (16) years shall be under the supervision of a parent, guardian, or other adult supervision approved by the minor's parent or guardian.
- (f) All minors, when permitted by a parent or guardian to use a pneumatic gun, shall be responsible for obeying all laws, regulations, and restrictions governing such use.
- (g) The training of minors in the use of pneumatic guns shall be done only under direct supervision of a parent, guardian, or a certified instructor. Training of minors above the age of sixteen (16) may also be done without direct supervision if approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, any service of the Department of Defense, the Junior Reserve Officer Training Corps, American Legion, 4-H, the Civilian Marksmanship Program, Boy or Girl Scouts, USA Shooting, and similar groups approved by the chief of police, or any person authorized by these entities to certify instructors.
- (h) All training and shooting shall take place either indoors at a range deemed safe for such use by the minor's certified instructor, or outdoors at a facility meeting the requirements of subsection (b) above.
- (i) All law enforcement, conservators of the peace, animal wardens, wildlife officials, and similar groups approved by the chief of police in writing shall be exempted from the restrictions of this section when performing their official duties.

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2. Pursuant to Section 12 of the Roanoke City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending Section 24-2.1 Prohibition of Firearms on City Property to Chapter 24 Public Buildings and Property Generally to exempting wildlife officials from the restrictions imposed thereunder; and dispensing with the second reading of this ordinance by title.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. The Code of the City of Roanoke (1979), as amended, is amended by exempting wildlife officials from the restrictions imposed under Section 24-2.1 Prohibition of Firearms on City Property to Chapter 24 Public Buildings and Property Generally, is hereby amended as follows:

* * *

Section 24-2.1 Prohibition of Firearms on City Property.

(4) This section shall not apply to (a) military personnel when acting within the scope of their official duties, (b) sworn law enforcement officers, conservators of the peace, animal wardens and wildlife officials acting in their official capacity, (c) private security personnel hired by the City, when any of them are present in buildings owned, leased or operated by the City or in parks and in any recreational or community facility that is owned or used by the City; (d) museums displaying firearms and the personnel and volunteers of museums or living history re-enactors, performers, actors and/or interpreters, who possess firearms that are not loaded with projectiles, when such persons are participating in, or traveling to or from, historical interpretive events or are acting in any play, stage show or performances that involve the display or demonstration of such firearms as a part of such play, stage show or presentation; (e) exhibitors, sellers and purchasers of firearms at gun shows conducted and held at the Berglund Center and (f) activities of (i) a Senior Reserve Officers' Training corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. §2101 et seq., or (ii) any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. Such activities in (f) above shall follow strict guidelines developed by such institutions for these activities and shall be conducted under the supervision of staff officials or such institutions.

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2. Pursuant to Section 12 of the Charter of the City of Roanoke, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.