

Winnetka Village Council
SPECIAL MEETING
Village Hall
510 Green Bay Road
Friday, July 19, 2013
8:00 A.M.

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The Winnetka Village Council will convene a Special Meeting on Friday, July 19, 2013, at 8:00 a.m., in the Council Chambers of the Winnetka Village Hall, 510 Green Bay Road, Winnetka, Illinois. The agenda of the Special Meeting is as follows:

AGENDA

- 1) Call to Order
- 2) Ordinance MC-4-2013: An Ordinance Amending Chapter 9.12 of Title 9 of the Winnetka Village Code to Regulate the Ownership and Possession of Assault Weapons in the Village of Winnetka – Adoption.....2
- 3) Adjournment

Posted: July 16, 2013, 11:00 p.m.

NOTICE

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The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator – Megan Pierce, at 510 Green Bay Road, Winnetka, Illinois 60093, 847.716.3543; T.D.D. 847.501.6041.



Agenda Item Executive Summary

Title: MC-4-2013 - Amending Chapter 9.12 to Regulate the Ownership and Possession of Assault Weapons - Adoption

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 07/19/2013

Consent: YES NO

<input checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

July 16, 2019 Council Agenda, pp. 197 - 213

Executive Summary:

Following federal court rulings that declared Illinois' weapons regulations unconstitutional because they lacked a concealed carry provision, the General Assembly passed the Illinois Firearm Concealed Carry Act ("Act"), which became law on July 9, 2013. The Act (Public Act 98-0063) sets out a regulatory framework whereby individuals may obtain State licenses to carry weapons throughout the State, except in certain specified locations.

The Act preempts home rule authority, with one exception: it allows home rule units of government to ban assault weapons, provided the local law imposing the ban is enacted within 10 days after the effective date of the Act. Several municipalities in the area have considered assault weapons ordinances, with results ranging from declining to take action, to partial bans, to the enactment of comprehensive assault weapons bans.

At its regular meeting on July 16, 2013, the Village Council heard public comment on and discussed two draft ordinances, one draft that would impose a partial ban on assault weapons by regulating their possession and requiring their safe storage and transport (Alternate 1), and a second draft that would impose a comprehensive ban on assault weapons (Alternate 2). After a lengthy discussion, the Council voted to introduce Alternate 1, titled "An Ordinance Amending Chapter 9.12 of Title 9 of the Winnetka Village Code to Regulate the Ownership and Possession of Assault Weapons in the Village of Winnetka," and announced that a special meeting to consider adoption of the Ordinance would be held on Friday, July 19, 2013, at 8:00 a.m. Passage of Ordinance MC-4-2013 requires the concurrence of a majority of the Council.

Recommendation / Suggested Action:

- 1) Consider a motion passing Ordinance MC-4-2013, titled "An Ordinance Amending Chapter 9.12 of Title 9 of the Winnetka Village Code to Regulate the Ownership and Possession of Assault Weapons in the Village of Winnetka"

Attachments:

MC-4-2013 - An Ordinance Amending Chapter 9.12 of Title 9 of the Winnetka Village Code to Regulate the Ownership and Possession of Assault Weapons in the Village of Winnetka

**AN ORDINANCE
AMENDING CHAPTER 9.12
OF TITLE 9 OF THE WINNETKA VILLAGE CODE
TO REGULATE THE OWNERSHIP AND POSSESSION OF ASSAULT WEAPONS
IN THE VILLAGE OF WINNETKA**

WHEREAS, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the Illinois “Firearm Concealed Carry Act,” Public Act 98-0063, became law on July 8, 2013, upon the vote of both houses of the Illinois General Assembly to override the amendatory veto of the Governor of the State of Illinois; and

WHEREAS, the Firearm Concealed Carry Act preempts the authority of home rule units of government in the State of Illinois, including the Village of Winnetka, to regulate assault weapons, except pursuant to an ordinance or regulation enacted by a home rule unit on, before or within ten (10) days after the effective date of the Firearm Concealed Carry Act; and

WHEREAS, the Council of the Village of Winnetka (Village Council) are of the opinion that assault weapons, as defined in this Ordinance, are subject to regulation as provided herein, and should be regulated as provided herein within the corporate limits of the Village of Winnetka; and

WHEREAS, the Village Council finds and determines that assault weapons are capable of a rapid rate of fire and have the capability to fire a large number of rounds due to large capacity fixed magazines or the ability to use detachable magazines; and

WHEREAS, recent incidents in Aurora, Colorado; Newtown, Connecticut and Santa Monica, California demonstrate that gun violence is not limited to urban settings, but has become a tragic reality in many suburban and small town locations as well; and

WHEREAS, the Village Council finds and determines that assault weapons have been used in a number of notorious mass shooting incidents in venues such as public schools, including recent shooting incidents in Newtown, New Jersey and Santa Monica, California, and are commonly associated with military or antipersonnel use; and

WHEREAS, Chapter 9.12 of the Winnetka Village Code pertains to the sale and possession of firearms in the Village; and

WHEREAS, Village Council desires to provide for the health, safety and welfare of the Village and its citizens by reducing opportunities for the use of deadly force against innocent persons while preserving the rights of residents to keep firearms and to allow firearms in their own homes; and

WHEREAS, pursuant to the home rule powers of the Village, and in order to protect both the home rule authority of the Village and the public safety and welfare within the Village, the Village Council desires to amend Chapter 9.12 of the Village Code to impose safe storage and security requirements as provided in this Ordinance, to limit the opportunity for access to and use of assault weapons, as defined in this Ordinance, by untrained or unauthorized users; and

WHEREAS, this amendatory ordinance is considered and adopted in accordance with the 10-day period afforded by Public Act 98-0063 for home rule units to enact laws pertaining to assault weapons; and

WHEREAS, this Ordinance has been placed on the Village Council's agenda and made available for public inspection at Village Hall and on the Village's web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, the Council of the Village of Winnetka do ordain as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Chapter 9.12, "Weapons," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Welfare," is hereby re-titled as Chapter 9.12, "Firearms Control."

SECTION 3: Section 9.12.020, "Definitions," of Chapter 9.12, "Firearms Control," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Welfare," is hereby amended by adding a new Section 9.12.050, which shall be titled "Assault Weapons and Large Capacity Magazines" and shall provide as follows:

Section 9.12.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For purposes of this chapter, certain words are defined, as follows:

A. "Ammunition" means cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed or intended for use in a firearm.

B. "Antique firearm" means:

1. Any firearm which is incapable of being fired or discharged and which is possessed as a curiosity or ornament or for its historical significance or value including, but not limited to, any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system; or

2. Any firearm manufactured before 1898 for which cartridge ammunition is not commercially available.

C "Assault" weapon means:

1. A semiautomatic rifle that has the capacity to accept a large capacity magazine detachable or otherwise and one or more of the following:

a. Only a pistol grip without a stock attached;

b. Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;

c. A folding, telescoping or thumbhole stock;

d. A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or

e. A muzzle brake or muzzle compensator;

- xviii. Tavor;
- xix. Thompson 1927, Thompson M1, or Thompson 1927 Commando; or
- xx. Uzi, Galil and Uzi Sporter, Galil Sporter, or Galil Sniper Rifle (Galatz).
- b. The following pistols or copies or duplicates thereof:
 - i. Calico M-110;
 - ii. MAC-10, MAC-11, or MPA3;
 - iii. Olympic Arms OA;
 - iv. TEC-9, TEC-DC9, TEC-22 Scorpion, or AB-10; or
 - v. Uzi.
- c. The following shotguns or copies or duplicates thereof:
 - i. Armscor 30 BG;
 - ii. SPAS 12 or LAW 12;
 - iii. Striker 12; or
 - iv. Streetsweeper.

“Assault weapon” does not include any firearm that has been made permanently inoperable, or satisfies the definition of “antique firearm,” as defined in subsection B of this section, or weapons designed for Olympic target shooting events.

D. “Detachable magazine” means any ammunition feeding device, the function of which is to deliver one or more ammunition cartridges into the firing chamber, which can be removed from the firearm without the use of any tool, including a bullet or ammunition cartridge.

E. C.—“Firearm” means ~~an any~~ weapon ~~which that~~ will, or that is designed to or is restored to, expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; provided that, such term shall not include:

1. Antique firearms; or
2. Any device used exclusively for line throwing, signaling, or safety and required or recommended by the United States Coast Guard or Interstate Commerce Commission; or
3. Any industrial device used exclusively for firing nails, rivets, stud cartridges, or similar construction or industrial material; or
4. Any pneumatic gun, spring gun or B-B gun which expels a single globular projectile not exceeding .18 inches in diameter; or
5. Model rockets designed to propel a model vehicle in a vertical direction.

E. D.—“Firearm dealer” means any person engaged in the business of:

1. Selling firearms or ammunition at wholesale or retail; or
2. Manufacturing firearms or ammunition; or
3. Repairing firearms.

G. E.—“Handgun” means:

1. A firearm designed or redesigned or made or remade or intended to be fired while held in one hand; or
2. A firearm having a barrel of less than ten (10) inches in length; or
3. A firearm of a size which may be concealed upon the person.
4. The term “handgun” includes a combination of parts from which such firearm can be assembled.

H. "Large capacity magazine" means any ammunition feeding device with the capacity to accept more than ten rounds, but shall not be construed to include the following:

1. A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds.

2. A 22 caliber tube ammunition feeding device.

3. A tubular magazine that is contained in a lever-action firearm.

I. F. "Licensed firearm collector" means any person licensed as a collector by the Secretary of the Treasury of the United States under Title 18, United States Code, Section 923.

J. "Muzzle brake" means a device attached to the muzzle of a weapon that utilizes escaping gas to reduce recoil.

K. "Muzzle compensator" means a device attached to the muzzle of a weapon that utilizes escaping gas to control muzzle movement.

L. G. "Security personnel" means special agents employed by a railroad or public utility to perform police functions, guards of armored car companies, or watchmen or security guards and persons regularly employed in a commercial or industrial operation for the protection of persons employed by or property related to such commercial or industrial operation.

SECTION 4: Chapter 9.12, "Firearms Control," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Welfare," is hereby amended by adding a new Section 9.12.025, which shall be titled "Safe Storage and Transportation of Assault Weapons," and shall provide as follows:

9.12.025 Safe Storage and Transportation of Assault Weapons.

A. Safe Storage of Assault Weapons. It is unlawful and a violation of this subsection A to store or keep any assault weapon in the Village unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept when being carried by or under the control of the owner or other lawfully authorized user.

B. Transportation of Assault Weapons. It is unlawful and a violation of this subsection B for any person to carry or possess an assault weapon in the Village, except when on his own land or in his own abode, legal dwelling or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, except that this section does not apply to or affect transportation of assault weapons that meet one of the following conditions:

1. are broken down in a non-functioning state; or

2. are not immediately accessible; or

3. are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

C. Exceptions.

1. Self-defense. No person shall be punished for a violation of this section if an assault weapon is used in a lawful act of self-defense or in defense of another.

2. The provisions of this section do not apply (i) to any law enforcement officer, agent or employee of any municipality of the State of Illinois, (ii) to any law enforcement officer, agent or employee of the State of Illinois, of the United States, or of any other state, or (iii) to any member of the military or other service of any state or the United States, including national guard and reserves, if the persons described are authorized by a competent authority to so carry an assault weapon loaded on a public way and such person is acting within the scope of his duties or training.

SECTION 5: Chapter 9.12, "Firearms Control," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Welfare," is hereby amended by adding a new Section 9.12.050, which shall be titled "Penalties," and shall provide as follows:

9.12.050 Penalties.

Any person found in violation of section 9.12.025 or section 9.12.040 of this chapter shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense.

SECTION 6: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 7: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of July, 2013, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of July, 2013.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this 19th day of July,
2013.

Introduced: July 16, 2013
Passed and Approved: