

ORDINANCE NO. 16-02

AN ORDINANCE REGULATING THE POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, AND EXPLOSIVES IN MUNICIPAL BUILDINGS AND POLICE STATIONS IN THE TOWN OF MILLVILLE

WHEREAS, by and through adoption of House Bill 192 by the 148th General Assembly of the State of Delaware (“HB192”), codified at Title 22, Section 111 of the Delaware Code, municipalities are permitted to adopt Ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations; and

WHEREAS, The Mayor and Town Council desire to add a new Chapter 80 to the Town Code to prohibit possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations to the fullest extent permitted by HB 192;

WHEREAS, The Town has introduced this Ordinance in accordance with procedures established by law.

NOW THEREFORE, IT IS HEREBY ORDAINED, by the Town Council of the Town of Millville that the following Code additions are adopted:

Section 1. Add a new Chapter 80, entitled “Firearms”, to the Code of the Town of Millville as follows:

§ 80-1. Possession Of Firearms, Ammunition, Components Of Firearms, Or Explosives In Municipal Buildings And Police Stations Prohibited.

- A. Prohibition. Except as set forth in subsection E of this section, possession of any firearms, ammunition, component of firearms, or explosive is prohibited in all municipal buildings and police stations.
- B. Municipal Building Defined. For purposes of this section, “municipal buildings” are defined as any building where the Town meets in its official capacity, or any building containing the offices of elected officials and of public employees actively engaged in performing governmental business, but excludes any parking facility. The definition of “municipal building” also includes any non-Town owned or leased building where the Town is meeting in or occupying such a building, but only during the time that the Town is meeting in or occupying such a building.
- C. Required Signs. In all municipal buildings and police stations, a conspicuous sign shall be posted at each entrance stating that the possession of firearms, ammunition, components of firearms, or

explosives is prohibited. Such sign may but is not required to also state that persons in violation may be denied entrance to the building or be ordered to leave the building.

- D. Immediate Departure. Any person who immediately foregoes entry or immediately exits any municipal building or police station due to the possession of a firearm, ammunition, components of firearms, or explosives shall not be guilty of violating this section.
- E. Exemptions. Nothing in this § 80-1 shall be deemed to prevent any of the following in municipal buildings or police stations:
 - (1) Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
 - (2) Law enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition, or explosives;
 - (3) Law enforcement agencies conducting firearms safety and training programs;
 - (4) Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;
 - (5) Compliance by persons subject to protection from abuse court orders;
 - (6) Carrying firearms and ammunition by persons who hold a valid license pursuant to either §1441 or §1441A of Title 11 of the Delaware Code so long as the firearm remains concealed except for inadvertent display or for self defense or defense of others;
 - (7) Carrying firearms and ammunition by officers or employees of the United States duly authorized to carry a concealed firearm; or
 - (8) Carrying firearms and ammunition by agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.
- F. Penalties. Any person who shall violate or fail to conform to any provision of this Article shall be subject to penalties under this article not exceeding \$200 for each day of the violations, as well as

the Town's costs and expenses, including reasonable attorney's fees, incurred to enforce the provisions of this Article and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this Article shall be considered civil penalties and any action brought for the recovery of the penalties by the Town shall be brought in any civil court of competent jurisdiction.

Section 2. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent. To the extent that this Ordinance is deemed to exceed the statutory authorization provided by HB 192, the Town Council's intent is to implement the provisions of HB 192 to the fullest extent permitted, and the Ordinance should be interpreted so that any invalid provision is limited only to the maximum authorization permitted by HB 192.

Section 3. No Repeal of Existing Firearms Related Ordinances. Adoption of this Ordinance shall in no way repeal or alter any law, ordinance or regulation prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985. To the extent that this Ordinance conflicts with any similar ordinance prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985, the more stringent of the two ordinances shall govern.

Section 4. Effective Date. This Ordinance shall become effective immediately upon its adoption by Town Council.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY,
DELAWARE, ON THIS 10 DAY OF Nov., 2015.

SEAL:



GERALD HOCKER, JR., MAYOR

ATTESTED:



STEVE MANERI, SECRETARY

