

**ORDINANCE O-2019-24**

**AN ORDINANCE AMENDING CHAPTERS 501, 517, AND 549 WHICH ADDRESS THE USE OF FIREARMS IN THE VILLAGE.**

WHEREAS, the Ohio General Assembly has enacted ORC § 9.68, which becomes effective on December 28, 2019, and which by virtue of its finding that it is a general law of the State of Ohio removes from Ohio political subdivisions the right to enact and enforce laws relating to the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition; and

WHEREAS, the Village of Windham has enacted various regulations which govern the use of firearms within the Village in addition to state and federal regulations, which additional regulations are set forth in the Village of Windham Codified Ordinances; and

WHEREAS, if the additional regulations on firearms currently enacted as part of the Village of Windham Codified Ordinances are not removed prior to December 28, 2019, a private cause of action is created under ORC § 9.68 through which the Village may be liable for damages, attorney fees, and other costs for no other reason than the Village Ordinances provide additional protections for Village citizens than are set forth in ORC § 9.68; and

WHEREAS, because of the penalties set forth in ORC § 9.68 the Village Council has determined it has no option but to comply with the requirements of ORC § 9.68, even though the Village Council believes the changes create hazards that did not previously exist in the Village.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Windham, State of Ohio, the majority of the members elected thereto concurring that:

SECTION 1: Chapter 549.08 of the Village of Windham Codified Ordinances is hereby repealed.

SECTION 2: The Village of Windham Codified Ordinances Chapter 505.11, 517.01, 549.01 and 549.02 are amended as set forth in the attached Exhibit "A", specifically the additions shown in the italicized text and deletions shown in the strikethrough text are enacted.

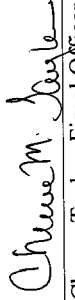
SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that the deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of the State of Ohio.

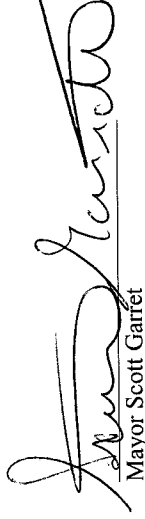
SECTION 4: This Ordinance shall take effect on December 27, 2019 or at the earliest time provided by law.

Passed in Council on First Reading December 17, 2019

Vote of Council:      Ayes: 6  
                                      Nays: 0

ATTEST:

  
Cheree Taylor, Fiscal Officer

  
Mayor Scott Garret

Approved as to Form:



Thomas Reitz, Solicitor

EXHIBIT "A"

VILLAGE OF WINDHAM CODIFIED ORDINANCES

549.02 Carrying Concealed Weapons

(f)(4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) ~~or a substantially equivalent municipal ordinance~~, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

549.01 Definitions.

(k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:

- (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
- (2) Any explosive device or incendiary device.
- (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
- (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
- (5) Any firearm muffler or suppressor;
- (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

~~(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934); 26 U.S.C. 5845(a).~~

(l) "Dangerous ordnance" does not include any of the following:

- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
- (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
- (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
- (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.

~~(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control~~

Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3) but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

~~Section 549.08 Discharging Firearms:~~

- ~~(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol, or other firearm within the corporate limits of the Municipality;~~
- ~~(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized;~~
- ~~(c)(3) Whoever violates this section is guilty of a misdemeanor of the fourth degree;~~

~~Section 505.11 Hunting Prohibited.~~

- ~~(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of *any means other than the use of a firearm as defined in ORC 2923.11 within the corporate limits of the Municipality*, firearm, bow and arrow, air rifle or any other means within the corporate limits of the Municipality;~~
- ~~(b) Whoever violates this section is guilty of a minor misdemeanor.~~

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~~Section 517.01~~

- ~~(vv) "Merchandise prize" means any item of value, but shall not include any of the following:~~
  - ~~(1) Cash, gift cards, or any equivalent thereof;~~
  - ~~(2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;~~
  - ~~(3) Firearms, tobacco, or alcoholic beverages; or~~
  - ~~(4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.~~