



Legislation Details (With Text)

File #: 20-0902 **Name:**

Type: Ordinance **Status:** Agenda Ready

File created: 5/28/2020 **In control:** City Council Legislative Meeting

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Title: Introduction and First Reading. Consideration. Passage on First Ready of an ordinance to amend Chapter 3 ("CITY DEPARTMENTS AND AGENCIES") of Title 2 ("GENERAL GOVERNMENT") of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding a new Section 2-3-5, "Prohibition of Firearms on City Property."

Sponsors:

Indexes:

Code sections:

Attachments: 1. 20-0902_Cover Sheet, 2. 20-0902_Ordinance, 3. 20-0902_SB35, 4. 20-0902_HB421

| Date | Ver. | Action By | Action | Result |
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City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 4, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Introduction and First Reading. Consideration. Passage on First Ready of an ordinance to amend Chapter 3 ("CITY DEPARTMENTS AND AGENCIES") of Title 2 ("GENERAL GOVERNMENT") of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding a new Section 2-3-5, "Prohibition of Firearms on City Property."

ISSUE: Consideration of an ordinance to prohibit firearms on City property.

RECOMMENDATION: That City Council introduce the ordinance, pass the ordinance on first reading, and hold a public hearing on the ordinance on June 20, 2020, and after public hearing, adopt the ordinance on June 20, 2020.

DISCUSSION: On July 9, 2019, City Council adopted an ordinance to prohibit firearms on certain public property in anticipation of the General Assembly adopting new state law that authorizes this action. The July 2019 ordinance was contingent on the General Assembly adoption of the authority as well as on re-enactment by the City Council. Therefore, the July 2019 ordinance did not become law.

As anticipated, in its 2020 session, the General Assembly adopted changes to Section 15.2-915 of the State Code that authorizes localities to adopt an ordinance that prohibits the possession, carrying, or transportation of firearms in buildings owned, leased or used by the City as well as in parks, recreational or community facilities owned or used by the City. The new authorization also authorized these prohibitions in public streets where there is a permitted event, whether or not the event actually received its permit. We believe this added authorization allows the City to enforce this prohibition on public streets during an event operating under a Special Event Permit.

The prohibition extends to City employees, agents, or volunteers in workplaces owned, operated or managed by the City but does not apply to military personnel acting within the scope of their official duties, sworn law enforcement officers or private security personnel hired by the City when these individuals are present in buildings or on property included in the firearm prohibition. The draft ordinance also specifically excludes historical reenactors and those possessing inoperative, unloaded firearms when such persons are participating in or traveling to/from special events that involve the display or demonstration of these firearms as well as Senior Reserve Officers' Training Corps programs and intercollegiate sports where the sport includes the use of a firearm. The proposed ordinance also allows the city to install appropriate security measures to enforce the ordinance and requires the locality to post signs at the entrance of all areas where firearms are prohibited.

Pursuant to Section 15.2-1429 of the Virginia Code, the City Council may prescribe fines and other punishments for violations of its ordinances. The sanctions may not to exceed a Class 1 Misdemeanor which is punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500, or both. Other types of misdemeanors include Class 2 misdemeanors punishable by confinement in jail for not more than six months and a fine of not more than \$1,000, or both; Class 3 misdemeanors punishable by a fine of not more than \$500; or Class 4 misdemeanors, a fine of not more than \$250.

The proposed ordinance proposes enforcement as a Class 1 Misdemeanor. This is consistent with the punishment for trespass. A person carrying a firearm in a building or on property where firearms are prohibited by this ordinance would be asked to leave the property. If he or she declines to do so, the police would then be summoned and the person would be charged with a Class 1 misdemeanor, punishable by 12 months in jail, a \$2500 fine, or both. City Council may determine that a lesser offense would be more appropriate for these circumstances and may amend the ordinance accordingly.

BACKGROUND: Gun violence and the resulting need for common sense gun safety laws, rules and regulations has been a longstanding issue in Alexandria, as well as in Virginia and across the United States. However, pursuant the Dillon Rule, Virginia law precludes local governments from enacting local gun control measures, including but not limited to any prohibition on the possession or carrying of firearms in City buildings or on City property.

In response to the mass shooting in Virginia Beach on May 31, 2019, Governor Northam called for a Special Session of the General Assembly to address “the emergency of gun violence in Virginia.” The Governor indicated that one of his priorities for that Special Session included legislation to expand local authority to regulate firearms, including in government buildings.

The Special Session was held on July 9, 2019 and the General Assembly adjourned until November 19, 2019

with no action on any legislation, including bipartisan legislation filed to provide localities with additional authority in the area of firearm regulation: House Bill 4005 (by Del. Cia Price), House Bill 4007 (by Del. Glenn Davis), Senate Bill 4001 (by Sen. John Edwards), and Senate Bill 4013 (by Senate Majority Leader Tommy Norment).

The General Assembly referred all legislation filed during the Special Session to the Virginia Crime Commission for consideration and recommendations by the Commission. The Alexandria City Council submitted a letter to the Crime Commission in support of legislation to afford localities the authority to regulate firearms in government buildings and on government property.

Ultimately, during the regular 2020 session, the General Assembly adopted Senate Bill 35 and House Bill 421, attached, which amend Section 15.2-915 of the Virginia Code. The bills authorize any locality to adopt an ordinance to prohibit the possession or carrying of firearms, ammunition, or components in: any building, or part thereof, owned or used by such locality for governmental purposes; in any public park owned by the locality; or in any public street, road, alley, sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In addition, this legislation repeals certain code provisions limiting the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers and others. Finally, the bill also provides any firearm received by the locality pursuant to gun buy-back program shall be destroyed by the locality unless the person surrendering such firearm requests in writing that such surrendered firearm be sold. The bills were signed into the law by Governor Northam on April 22, 2020 and have an effective date of July 1, 2020.

ATTACHMENTS:

1. Ordinance Cover Sheet
2. Proposed Ordinance
3. Senate Bill 35 (Surovell)
4. House Bill 421 (Price)

STAFF:

Joanna Anderson, City Attorney
George McAndrews, Senior Assistant City Attorney
Sarah Graham Taylor, Legislative Director