

Denver Ordinance on So Called Assault Weapons and Higher Capacity Mags.

Sec. 38-130. - Assault weapons.

(a) *Legislative intent.* The city council hereby finds and declares that the use of assault weapons poses a threat to the health, safety and security of all citizens of the City and County of Denver. Further, the council finds that assault weapons are capable both of a rapid rate of fire as well as of a capacity to fire an inordinately large number of rounds without reloading and are designed primarily for military or antipersonnel use. The city council finds that law enforcement agencies report increased use of assault weapons for criminal activities. This has resulted in a record number of related homicides and injuries to citizens and law enforcement officers. It is, therefore, the intent of the city council to place reasonable and necessary restrictions on the sale and possession of assault weapons while placing no restrictions on the right of citizens to use weapons which are primarily designed and intended for hunting, target practice and other legitimate sports or recreational activities and the protection of home, person and property.

(b) *Definitions.* The following words and phrases, when used in this section, shall have these meanings respectively ascribed to them:

(1) *Assault weapon* shall include all firearms with any of the following characteristics:

a. All semiautomatic action, centerfire rifles with a detachable magazine with a capacity of twenty-one (21) or more rounds.

b. All semiautomatic shotguns with a folding stock or a magazine capacity of more than six (6) rounds or both.

c. Reserved.

d. Any firearm which has been modified to be operable as an assault weapon as defined herein.

e. Any part or combination of parts designed or intended to convert a firearm into an assault weapon, including a detachable magazine with a capacity of twenty-one (21) or more rounds, or any combination of parts from which an assault weapon may be readily assembled if those parts are in the possession or under the control of the same person.

(2) *Fixed cartridge* shall mean that self-contained unit consisting of the case, primer, propellant charge and projectile or projectiles.

(3) *Magazine* shall mean a box, drum or other container which holds and feeds ammunition into a semiautomatic rifle, shotgun or pistol.

(4) *Pistol* shall mean a weapon originally designed, made and intended to fire a projectile (bullet) from one (1) or more barrels when held in one (1) hand and having:

a. A chamber as an integral part of or permanently aligned with the bore or having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing; and

b. A short stock designed to be gripped by one (1) hand and at an angle to and extending below the line of the bore(s).

(5) *Rifle* shall mean a weapon designed or redesigned, made or remade and intended to be fired from the shoulder or hip and designed or redesigned or made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(6) *Semiautomatic* shall mean a weapon which fires a single projectile for each single pull of the trigger which automatically chambers the next round for firing and which employs a magazine.

(7) *Shotgun* shall mean a weapon designed or redesigned, made or remade and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(c) *Specific weapons not included.* As used in this section, *assault weapon* does not include any of the following:

(1) All weapons that do not use fixed cartridges, all weapons that were in production prior to 1898, all manually operated bolt-action weapons, all lever-action weapons, all slide-action weapons, all single-shot weapons, all multiple-barrel weapons, all revolving-cylinder weapons, all semiautomatic weapons for which there is no fixed magazine with capacity of twenty-one (21) or more rounds available, all semiautomatic weapons that use exclusively en bloc clips, all semiautomatic weapons in production prior to 1954 and all rimfire weapons that employ a tubular magazine.

(2) Any firearm that uses .22 caliber rimfire ammunition.

(3) Any assault weapon which has been modified either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon.

(d) *Supplemental provisions.* Except as specifically stated herein, the provisions of this section are independent of and supplemental to any other provisions of law, and nothing shall prevent a device defined as an *assault weapon* in this section from also being regulated under other provisions of law.

(e) *Possession of assault weapons unlawful.* It shall be unlawful to carry, store, keep, manufacture, sell or otherwise possess within the City and County of Denver a weapon or weapons defined herein as assault weapons, except that this subdivision shall not apply to:

(1) Any federal, state or local government agency or to any sworn members of said agencies acting within their official capacities.

(2) Any assault weapon which is being used as a movie prop for any motion picture or television program which is being filmed in whole or in part within the City and County of Denver if, prior to such use, the police department is notified in advance in writing of the date, time, location, production schedule and days upon which such use shall take place and the type and serial numbers of the firearms.

(3) It shall be an affirmative defense to charges brought under this section that the transportation of an assault weapon:

(a) Is through the city by a nonresident who is in legal possession of an assault weapon; or

(b) Is by a person carrying a permit issued under subsection (f) and the transportation is for one (1) of the following purposes:

i. In aid of the civil power when thereto legally summoned;

ii. To a bona fide hunting trip for wild game, or to a legitimate sporting use of such weapon, including shooting matches or target trap or skeet shooting. All weapons carried for such purposes shall be unloaded;

iii. While transporting such weapon to or from a place for sale outside the city or for repair. All weapons carried for such purposes shall be unloaded at all times;

iv. As a member of the armed forces of a state or of the federal government while engaged in the lawful performance of duty;

v. In conjunction with moving personal property, including such weapon, from an old residence to a new residence. All weapons carried for such purposes shall be unloaded at all times.

(f) *Conditional exception.* Any person over the age of twenty-one (21) years who obtained an assault weapon legally prior to the effective date of this section may obtain a permit to keep, store and possess said assault weapon if:

(1) Said weapon is properly identifiable and contains its original serial number.

(2) An application for a permit for each assault weapon is filed with the police department within sixty (60) days of the effective date of this section pursuant to such procedures as the department may establish. The application shall contain a description of

the firearm that identifies it uniquely, including all identification marks and numbers, the full name, address, date of birth and fingerprints of the owner and the address where such assault weapon will be stored and such other information as the department may deem appropriate. The place of storage and possession shall not be changed without notification to the department of the proposed change in location and when said weapon will be transported. The department may charge a fee for registration not to exceed the actual processing costs of the department.

(3) The department shall issue a permit which shall identify the weapon and where it is to be stored.

(4) The information required for the registration and permitting of assault weapons shall be treated as confidential and shall not be made available to members of the general public. The council finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where an assault weapon is located. The information on a permit application shall be used by the city only for law enforcement purposes.

(g) *Sale or transfer unlawful.* It is unlawful to sell or transfer possession of an assault weapon possessed pursuant to subsection (f) within the City and County of Denver.

(h) *Reserved.*

(i) *Specific magazine prohibited.* It shall be unlawful to carry, store or otherwise possess a magazine which will hold or may be modified to hold twenty-one (21) or more rounds.

(j) *Penalty.* Any person, firm or corporation who is convicted of violating any provision of this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than nine hundred ninety-nine dollars (\$999.00) and a term of incarceration of not less than ten (10) days nor more than one hundred eighty (180) days.

(k) *Violation; disposition.* Upon a conviction of violating any provision of this section, the weapon shall be confiscated and destroyed under section 38-120, disposition of confiscated weapons.

(Ord. No. 669-89, § 1, 11-6-89; Ord. No. 719-89, § 1, 11-27-89; Ord. No. 1058-96, § 2, 12-9-96; Ord. No. 38-07, § 6, 1-22-07)