



TITLE #: 41
Ordinance #: 11-09-15-048

Date: November 9, 2015

**ORDINANCE for the Regulation of the
Possession of Firearms, Ammunition, Components of
Firearms, and Explosives in Municipal Buildings and
Police Stations in the Town of Cheswold**

DESCRIPTION: This Ordinance shall be known as the Regulation of the Possession of Firearms, Ammunition, Components of Firearms and Explosives in Municipal Buildings and Police Stations in the Town of Cheswold, as it set forth the regulations against the carrying of the aforementioned weapons into or onto the premises of municipal owned buildings and police stations. This Ordinance shall also be known as the, "No Weapons Ordinance".

Section 1. PURPOSE

The Mayor and Town Council of the Town Cheswold desire to add a new Ordinance 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 State HB 192.

Section 2. AUTHORITY TO ACT

The Town is authorized to create, approve and conduct this Ordinance by and through the adoption of House Bill 192, by the 148th General Assembly of the State of Delaware, ("HB 192"), codified as Title 22, Section 111 of the Delaware Code, granting municipalities the right to adopt Ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations.

Section 3. APPLICABILITY

The provisions of this Ordinance shall apply to and include all buildings, owned by and within the corporate limits of the Town on Cheswold.

Whereas, the Town of Cheswold has introduced this Ordinance in accordance with procedures established by the Town Charter, Section 6.8.2;

NOW THEREFORE IT IS HEREBY ORDAINED, by the Mayor and Town Council of the Town of Cheswold, that the following Ordinance provisions are adopted:

SECTION 1. Possession of Firearms, Ammunition, Components of Firearms, or Explosives in Municipal Buildings and Police Stations is Prohibited

- 1.1 Prohibition.** Except as set forth in Section 1.6 below, possession of firearms, ammunition, components of firearms, or explosives in municipal buildings and police stations is prohibited in all municipal buildings and police stations.
- 1.2 Definition of Municipal Building.** For purposes of this Ordinance, “municipal building/s are defined as any building where the Town of Cheswold 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.
- 1.3 Additional Definition of Municipal Building.** The definition of “municipal building/s shall also include any non-Town of Cheswold owned or leased building, where the Town of Cheswold is meeting in or occupying such a building, but only during the time that the Town of Cheswold is meeting in or occupying such a building.
- 1.4 Required Signs.** In all municipal buildings and police stations, a conspicuous sign shall be posted at each entrance stating the possession of firearms, ammunition, components of firearms, or explosives are prohibited. Such sign may but is not required to also state that person in violation may be denied entrance to the building or be ordered to leave the building.
- 1.5 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 Ordinance.

1.6 Exemptions. Nothing in Section 1 shall be deemed to prevent the following in municipal buildings or police stations:

- 1.6.1 Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
- 1.6.2 Law enforcement agencies receiving shipments or delivery of firearms, component of firearms, ammunition, or explosives;
- 1.6.3 Law enforcement agencies conducting firearms safety and training programs;
- 1.6.4 Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;
- 1.6.5 Compliance by persons subject to protection from abuse court orders;
- 1.6.6 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;
- 1.6.7 Carrying firearms and ammunition by officers or employees of the United States duly authorized to carry a concealed firearm or;
- 1.6.8 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 lawful execution of such duties.

1.7 Penalties. As necessary to protect public safety, any intentional violation of this Section 1 by any person shall be subject to a fine of at least \$250.00 and not to exceed \$500.00, or by imprisonment for not more than one, (1), year, or by both fine and imprisonment.

SECTION 2. Severability.

2.1 The provisions of this Ordinance shall be severable.

2.2 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

SECTION 2. Severability.

2.2 “continued”

provision that it cannot be presumed that the Town of Cheswold 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 the intent of the Town of Cheswold.

2.3 To the extent that this Ordinance is deemed to exceed the statutory authorization provided by HB 192, the intent of the Town Council of the Town of Cheswold 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, and/or 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 adoption by the Town of Cheswold.

Whereas, the Town Council of the Town of Cheswold, by unanimous vote, at their monthly Town Council Workshop meeting, held on Tuesday, December 22, 2016, directed the Secretary/Treasurer to produce a Resolution for a Public Hearing; and

Whereas, said Resolution #01-04-16-080 was approved for proper posting at the Town Council Workshop, held on Monday, January 4, 2016, at 6:00 p.m., at the Cheswold Town Hall; and

Whereas, the Town Council of the Town of Cheswold, properly posted and held a Public Hearing on **Tuesday, January 19, 2016**, at 6:00 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, to receive public comment on this Ordinance; and

Whereas, there was not any negative or adverse public comments made or received against the said Ordinance, at the above mentioned Public Hearing or received prior to the meeting; and

Whereas, the Town Council at their regular scheduled Town Council meeting, on Monday, February 1, 2016, held at 6:30 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, voted unanimously to approve this Ordinance; and

Now Therefore Be It Resolved, that the Town Council of the Town of Cheswold hereby authorizes the immediate implementation of this Ordinance # 11-09-15-048.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by an affirmative majority vote of Town Council members of the Town of Cheswold, at which a quorum was present and voting throughout, and that the same is still in force and effect.

APPROVED: Donald F. Tinari
Mayor

Date: February 1, 2016

CERTIFIED: Heidi Calpe
Secretary/Treasurer

Date: February 1, 2016

Agreed: Robert W. S.
Vice-Mayor

Date: February 1, 2016

Agreed: Judith A. Johnson
Councilperson

Date: February 1, 2016

Agreed: Position Vacant
Councilperson

Date: February 1, 2016

Agreed: Position Vacant
Councilperson

Date: February 1, 2016

NOTARIZED:



Town Clerk

Date: February 1, 2016

Sponsored by: Max Walton, Esquire – Town Attorney
Co-Sponsor: Theon E. Callender – Town Administrator