

ORDINANCE NO. G-1142

AN ORDINANCE AMENDING AND ADDING ADDITIONAL SECTIONS TO CHAPTER 220, ENTITLED "OFFENSES", OF ARTICLE IX, ENTITLED "OFFENSES AGAINST THE PUBLIC SAFETY", OF TITLE II, ENTITLED "PUBLIC HEALTH, SAFETY, AND WELFARE", OF THE CODE OF THE CITY OF JUNCTION CITY, KANSAS.

WHEREAS, Junction City is currently not in compliance with state law regarding weapons ordinances.

WHEREAS, Junction City recognizes the importance in protecting the individuals' rights to keep and bear arms, while at the same time keeping in mind general public safety concerns.

WHEREAS, Junction City will be able to enforce and hold those persons accountable for weapons violations.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

Section 1. A new Section 220.753 is hereby added to Chapter 220, Article IX, Title II of the Code of Junction City, Kansas; Sections 220.745, 220.750, 220.775, and 220.785 are hereby amended in Chapter 220, Article IX, Title II of the Code of Junction City, Kansas; and, Sections 220.755, 220.760, 220.765, 220.770, and 220.780 shall not be amended from their present version, all changes to read as follows:

SECTION 220.745 CRIMINAL CARRYING OF A WEAPON

- A. Criminal carrying of a weapon is knowingly carrying:
1. Any bludgeon, sand club, metal knuckles or throwing star;
 2. Concealed on or about one's person, a billy, blackjack, slingshot, or any other dangerous or deadly weapon or instrument of like character;
 3. On or about one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb projector or any object containing a noxious liquid, gas or substance; or
 4. Any pistol, revolver or other firearm concealed on or about one's person except when on the person's land or in the person's abode or fixed place of business; or
 5. Openly, any pistol, revolver or other firearm with ammunition in the chamber or magazine on or about one's person or in a motor vehicle except when on the person's land or in the person's abode or fixed place of business.
- B. Criminal carrying of a weapon is a class A nonperson misdemeanor.
- C. Subsection (A) shall not apply to:
1. Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 2. Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of

persons accused or convicted of crime while acting within the scope of their authority;

3. Members of the armed service or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
4. The manufacture of, transportation to, or sale of weapons to a person authorized under (1) through (3) of this Subsection to possess such weapons.

D. Subsections (A)(4) and (A)(5) shall not apply to:

1. Watchmen, while actually engaged in the performance of the duties of their employment;
 2. Licensed hunters or fishermen, while engaged in hunting or fishing;
 3. Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
 4. Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;
 5. The state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;
 6. Special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto;
 7. The United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provision of the paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto;
 8. Law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or
 9. Any person carrying a concealed handgun as authorized by K.S.A. 75-7c01 through 75-7c17, and amendments thereto.
- E. It shall not be a violation of this section if a person violates the provisions of K.S.A. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.
- F. As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points

with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

SECTION 220.750 CRIMINAL USE OF WEAPONS

A. Criminal use of a weapon is knowingly:

1. Selling, manufacturing, purchasing any bludgeon, sand club, metal knuckles or throwing star;
2. Possessing with intent to use the same unlawfully against another a billy, blackjack, slingshot or any other dangerous or deadly weapon or instrument of like character;
3. Setting a spring gun;
4. Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;
5. Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful use of a controlled substance;
6. Selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.
7. Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;
8. Possession of a firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds; or
9. Refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer.

B. Criminal use of weapons as defined in:

1. Subsection (A)(1), (A)(2), (A)(3), (A)(4), (A)(5), (A)(6), or (A)(9) is a class A nonperson misdemeanor;
2. Subsection (A)(7) or (A)(8) is a class B nonperson misdemeanor.

C. Subsections (A)(1) and (A)(2) shall not apply to:

1. Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

2. Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime while acting within the scope of their authority;
 3. Members of the armed service or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
 4. The manufacture of, transportation to, or sale of weapons to a person authorized under (1) through (3) of this Subsection to possess such weapons.
- D. Subsection (A)(8) shall not apply to:
1. Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;
 2. Any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;
 3. Possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting the student;
 4. Possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or
 5. Possession of a handgun by an individual who is licensed by the attorney general to carry a concealed handgun under K.S.A. 75-7c01 et seq., and amendments thereto.
- E. Subsection (A)(6) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 75-7c26, and amendments thereto.
- F. As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

SECTION 220.753 CRIMINAL DISTRIBUTION OF FIREARMS TO A FELON

- A. Criminal distribution of firearms to a felon is knowingly:
1. Selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in subsection (c), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was not found to have been in possession of a firearm at the time of the commission of the felony;
 2. selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in possession of a firearm at the time of the commission of the felony, or has been

released from imprisonment for such a felony, and has not had the conviction of such felony expunged or been pardoned for such felony;
or

3. selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the felony.
- B. Criminal distribution of firearms to a felon is a class A nonperson misdemeanor.
- C. Subsection (a)(2) shall apply to a felony under K.S.A. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of 21-5413, subsection (a) or (b) of 21-5415, subsection (b) of 21-5420, 21-5503, subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of 21-5807, and amendments thereto, K.S.A. 21-5705 or 21-5706, and amendments thereto, or K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b or 65-4160 through 65-4165, prior to their repeal, or a crime under a law of another jurisdiction which is substantially the same as such felony.
- D. It is not a defense that the distributor did not know or have reason to know:
1. The precise felony the recipient committed;
 2. that the recipient was in possession of a firearm at the time of the commission of the recipient's prior felony; or
 3. that the convictions for such felony have not been expunged or pardoned.

SECTION 220.775 CONFISCATION AND DISPOSITION OF WEAPONS

- A. Upon conviction of violating Sections 220.745, 220.750, or 220.755 of this Article, any weapon seized in connection therewith shall remain in the custody of the trial court.
- B. Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be:
1. Destroyed;
 2. Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;
or,
 3. Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory.

- C. If weapons are sold as authorized by subsection (B), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

SECTION 220.785 CARRY CONCEALED WEAPONS – PROHIBITED ACT

- A. Except as otherwise provided in this section, a licensee under the influence of alcohol or an illegally used controlled substance, to such a degree as to render such licensee incapable of safely operating a handgun, who knowingly possesses or carries a loaded handgun on or about the licensee, or within the licensee's immediate access and control while in a vehicle, commits a class A nonperson misdemeanor.
- B. Subsection (A) shall not apply to any of the following:
1. A licensee who possesses or carries a handgun while on the licensee's own dwelling or place of business or on land owned or possessed by the licensee; or
 2. The transitory possession or use of a handgun during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.
- C. Alcohol concentration of .08 or more shall be prima facie evidence that the defendant was under the influence of alcohol as it applies in subsection (A).

Section 2. This ordinance shall become effective upon publication in the Junction City Daily Union as required by law.

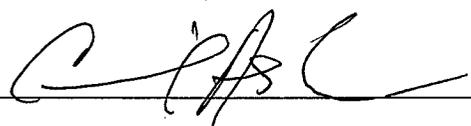
PASSED AND ADOPTED THIS 21 DAY OF JANUARY, 2014.



ATTEST:



Tyler Ficken
City Clerk



CECIL ASKA
Mayor