

THE CITY COUNCIL OF THE CITY OF MARKHAM, ILLINOIS

ORDINANCE NO. 13 - 0 - 2060

AN ORDINANCE AMENDING
TITLE XIII, CHAPTER 137
OF THE MARKHAM CODE OF ORDINANCES
(BAN ON SALE OR POSSESSION OF ASSAULT WEAPONS)

WHEREAS, the City of Markham is a home rule unit of local government as is provided by Article VII, Section 6 of the constitution of the State of Illinois, adopted in 1970, and as a home rule unit of local government, the City of Markham may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, the City of Markham desires to protect the health, safety and welfare of its residents;

WHEREAS, the City of Markham recognizes that assault weapons are more dangerous than ordinary weapons because users are able to rapidly discharge a large number of rounds and cause substantially more physical damage to people and property;

WHEREAS, Illinois House Bill 183 (HB 183) allows home rule communities such as the City of Markham, a 10 day period to enact legislation concerning assault weapons;

WHEREAS, after careful and thorough review of the matter by the City of Markham, it has been determined that the City of Markham should enact legislation to address the sale or possession of assault weapons;

WHEREAS, the City of Markham has therefore determined that it is necessary in order to protect the health, safety and welfare of its residents and in the best interest of the City that Title XIII, Chapter 137 of the Markham Code of Ordinances be amended;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Markham, Illinois, as follows:

Section 1. That Title XIII, Chapter 137 of the Markham Code of Ordinances is hereby amended to include the addition of Section 137.20 to read as follows:

§ 137.20 ASSAULT WEAPONS BAN

(A) Definitions.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (1) "Antique weapon" means weapons that have not been manufacturer or altered for a period of no less than seventy-five (75) years and are rendered permanently unusable.
- (2) "Assault weapon" means:
 - (a) A semi-automatic rifle that has the capacity to accept a large capacity magazine detachable or otherwise and one or more of the following:
 - (1) Only a pistol grip without a stock attached;
 - (2) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (3) A folding, telescoping or thumbhole stock;
 - (4) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or
 - (5) A muzzle brake or muzzle compensator.
 - (b) A semi-automatic pistol or any semi-automatic rifle that has a fixed magazine, that has the capacity to accept more than ten rounds of ammunition.
 - (c) A semi-automatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:

- (1) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (2) A folding, telescopic or thumbhole stock;
 - (3) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
 - (4) A muzzle brake or muzzle compensator; or
 - (5) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (d) A semi-automatic shotgun that has one or more of the following:
- (1) Only a pistol grip without a stock attached;
 - (2) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (3) A folding, telescopic or thumbhole stock;
 - (4) A fixed magazine capacity in excess of five rounds; or
 - (5) An ability to accept a detachable magazine.
- (e) Any shotgun with a revolving cylinder;
- (f) Conversion kit, part or combination of parts, from which an assault weapon can be assembled if those parts are in the possession or under the control of the same person;
- (g) Shall include, but not be limited to the assault weapon models identified as follows:

(1) The following rifles or copies or duplicates thereof:

- (i) AK, AKM, AKS, AK-47, AK-74, ARM, MAK90, Misr, NHM 90, NHM 91, SA-85, SA-93, VEPR;
- (ii) AR-10;
- (iii) AR-15, Bushmaster XM15, Armalite M15, or Olympic Arms PCR;
- (iv) AR70;
- (v) Calico Liberty;
- (vi) Dragunov SVD Sniper Rifle or Dragunov SVU;
- (vii) Fabrique National FN/FAL, FN/LAR, or FNC;
- (viii) Hi-Point Carbine;
- (ix) Hi-91, HK-93, HK-94, or HK-PSG-1;
- (x) Kel-Tec Sub Rifle;
- (xi) Saiga;
- (xii) SAR-8, SAR-4800;
- (xiii) SKS with detachable magazine;
- (xiv) SLG 95;
- (xv) SLR 95 or 96;
- (xvi) Steyr AUG;
- (xvii) Sturm, Ruger Mini-14;
- (viii) Tavor;
- (xix) Thompson 1927, Thompson M1, or Thompson 1927 Commando; or
- (xx) Uzi, Galil and Uzi Sporter, Galil Sporter, or Galil Sniper Rifle (Galatz).

(2) The following pistols or copies or duplicates thereof:

- (i) Calico M-110;
- (ii) MAC-10, MAC-11, or MPA3;
- (iii) Olympic Arms OA;
- (iv) TEC-9, TEC-DC9, TEC-22 Scorpion, or AB-10; or
- (v) Uzi.

(3) The following shotguns or copies or duplicates thereof:

- (i) Armscor 30 BG;
- (ii) SPAS 12 or LAW 12;

- (iii) Striker 12; or
- (iv) Streetsweeper.

- (3) "Assault weapon" does not include any firearm that has been made permanently inoperable, any antique firearm as defined in Section 1.1 of the Firearm Owners Identification Act (430 ILCS 62/1.1), or weapons designed for Olympic target shooting events.
- (4) "Detachable magazine" means any ammunition feeding device, the function of which is to deliver one or more ammunition cartridges into the firing chamber which can be removed from the firearm without the use of any tool, including a bullet or ammunition cartridge.
- (5) "Large capacity magazine" means any ammunition feeding device with the capacity to accept more than ten rounds, but shall not be constructed to include the following:
 - (a) A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds.
 - (b) A .22 caliber tube ammunition feeding device.
 - (c) A tubular magazine that is contained in a lever-action firearm.
- (6) "Muzzle brake" means a device attached to the muzzle of a weapon that utilized escaping gas to reduce recoil.
- (7) "Muzzle compensator" means a device attached to the muzzle of a weapon that utilized escaping gas to control muzzle movement.

(B) **Assault weapons and large magazines; sales prohibited; exceptions.**

- (1) No person shall manufacture, sell, offer, or display for sale, give, lend, transfer ownership of, acquire or possess any assault weapon or large capacity magazine. This subsection shall not apply to:

- (a) The sale or transfer to, or possession by any officer, agent, or employee of the City of Markham or any other municipality, county or state of of the United States, members of the armed forces of the United States; or the organized militia of this or any other state; or peace officers to the extent that any such person named in this subsection is otherwise authorized to acquire or possess an assault weapon and/or large capacity magazine and does so while acting within the scope of his or her duties;
 - (b) Transportation of assault weapons or large capacity magazines if such weapons are broken down and in a non-functioning state and are not immediately accessible to any person.
- (2) Any assault weapon or large capacity magazine possessed, sold or transferred in violation of Subsection (a) of the Section is hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of this Section.
 - (3) Any person found in violation of this Section shall be sentenced to not more than six months imprisonment or fined not less than \$ 500.00 and not more than \$ 1,000.00 or both.
 - (4) Any person who, prior to the effective date of this ordinance codified in this Section, was legally in possession of an assault weapon or large capacity magazine prohibited by this Section shall have 30 days from the effective date of this ordinance to do either of the following without being subject to prosecution hereunder:
 - (a) To remove the assault weapon or large capacity magazine from within the City of Markham limits; or
 - (b) To modify the assault weapon or large capacity magazine either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon or large capacity magazine; or

- (c) To surrender the assault weapon to the Chief of Police or his/her designee for disposal as provided below.

(C) **Destruction of weapons confiscated.**

- (1) Whenever any firearm or large capacity magazine is surrendered or confiscated pursuant to the terms of this section, the Chief of Police or his/her designee shall ascertain whether such firearm or large capacity magazine is needed as evidence in any matter.
- (2) If such firearm or large capacity magazine is not required for evidence it shall be destroyed at the direction of the Chief of Police or his/her designee. A record of the date and method of destruction and an inventory of the firearm or large capacity magazine so destroyed shall be maintained.

Section 2. Submission to Department of State Police. Within 30 days after adoption of this ordinance, the City Attorney shall submit a copy of this ordinance to the Department of State Police as required by Section 13.3 of the Firearm Owners Identification Card Act. (430 ILCS 65/13.3)

Section 3. All ordinances or portions of ordinances in conflict with the terms and provisions of this ordinance are hereby rescinded and revoked to the extent of such conflict.

Section 4. If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section 5. This ordinance shall be effective upon passage, approval and publication according to law.