

**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATIONS**

CC: 3C  
Amend No. \_\_\_\_\_

Date Prepared: September 3, 2010

Council Meeting Date: October 19, 2010

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**TO:** Honorable Mayor and Council  
**FROM:** Steve Kemp, City Attorney  
**SUBJECT:** Proposed Ordinance pertaining to Weapons

**RECOMMENDATION:** That the Mayor and Council adopt the proposed ordinance pertaining to weapons.

**SUMMARY:** In the most recent legislative session, the legislature enacted and the governor signed a new bill requiring the sale of guns confiscated or forfeited by a law enforcement agency, unless prohibited by state or local law. Currently, it has been the practice in the City of Peoria that all weapons confiscated by law enforcement are destroyed, unless they can be used for training.

The proposed ordinance would codify the existing City of Peoria Police Department's policy. From a public safety perspective, the Police Department and the City Attorney's Office submit the existing policy maintains public safety. First, sales and resales of weapons have contributed to drug related violence along the border, which impacts the state and City. Second, these sales can result in a subsequent seller providing the weapon to a person who then uses it to commit a serious crime. The City has no legal means to restrict such sales.

There have been no problems under the existing policy and it is our recommendation that the Mayor and Council adopt the proposed ordinance codifying the existing policy.

**FISCAL NOTE:** (If Applicable)

The City currently does not sell such weapons and enactment of this ordinance will not result in any loss of revenue.

**ATTACHMENT:**

1. Proposed Ordinance

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**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date:
- Approved
- Unfinished Business (Date heard previous)
- New Business
- Public Hearing: No Action Taken

ORD# 2010-30  
LCON#  
Action Date:

RES#  
LIC#

ORDINANCE NO. 2010-30

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 2 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 2-322 PERTAINING TO PROCUREMENT; SALE, LEASE OR DISPOSAL OF SURPLUS OR OBSOLETE CITY OR PERSONAL PROPERTY, DISPOSAL OF DANGEROUS WEAPONS, DANGEROUS INSTRUMENTS OR EXPLOSIVES BY SALE, LEASE OR DISPOSAL PROHIBITED AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 2 of the Peoria City Code (1992) is amended by amending 2-322 pertaining to Procurement; sale, lease or disposal of surplus or obsolete City or personal property; disposal of dangerous weapons, dangerous instruments or explosives by sale, lease or disposal prohibited and which shall read as follows:

Sec. 2-322. Procurement; sale, lease or disposal of surplus or obsolete City or personal property; disposal of dangerous weapons, dangerous instruments or explosives by sale, lease or disposal prohibited.

(a) Unless otherwise provided by law, the Materials Manager shall be empowered, pursuant to regulations, to allocate proceeds from the sale, lease, or disposal of surplus supplies. City agencies which originally purchased a material with general fund monies shall not be reimbursed for its transfer or sale. All such monies received shall be deposited in the city's general fund.

(b) The Materials Manager shall not sell any deadly weapon, dangerous instrument or explosive that was used or displayed in any criminal offense regardless of whether a conviction was obtained or any explosive displayed, used or possessed by any person. The Materials Manager may transfer weapons to the Police Department for Law Enforcement training purposes.

(c) Upon forfeiture of any deadly weapon, dangerous instrument or explosive by order of any court, the item which is the subject of the forfeiture shall be turned over to the Materials Manager for destruction. The Materials Manager may transfer weapons to the Police Department for Law Enforcement training purposes.

(d) The Materials Manager may delegate to the Police Department the destruction of any deadly weapon, dangerous instrument or explosive. If the deadly weapon, dangerous instrument or explosive cannot be destroyed or is determined to have historic value, it shall be rendered inoperable and may be otherwise disposed of as permitted by law.

(1) For purposes of this section, Historic is defined as a weapon of which the model is not available for retail sale due to no longer being manufactured or having historical significance in the community as determined by the Police Department.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 19<sup>th</sup> day of October, 2010.

Dated: \_\_\_\_\_

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Bob Barrett, Mayor

ATTEST:

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Rhonda Simmons, Acting City Clerk

APPROVED AS TO FORM:

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Stephen M. Kemp, City Attorney

Published in Peoria Times

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Effective Date: November 5, 2010