

AN ORDINANCE

**of the City Council of the City of Berkley, Michigan
to Amend Section 82-279 and Add Section 82-284 to Article VII of Chapter 82,
Offenses and Miscellaneous Provisions, of the City of Berkley Code of Ordinances
to Designate the Offense of Carrying Concealed Weapons Without a License as a
Misdemeanor, and to Prohibit Possession or Use of Firearms or Other Dangerous Weapons
While Under the Influence of Alcoholic Liquor or Controlled Substance.**

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 82-279 shall be amended and Section 82-284 shall be added to Article VII of Chapter 82 of the Berkley City Code, as follows:

ARTICLE VII. – Offenses Against Public Safety

Sec. 82-276. – Sale of cigarettes or other tobacco products by mechanical devices.

It is prohibited to sell cigarettes or other tobacco products by means of vending machines or other mechanical devices.

Sec. 82-277. – Abandoned refrigerators.

- (a) No person shall knowingly leave outside of any building or dwelling in a place accessible to children, any abandoned, unattended, available or discarded icebox, refrigerator or any other container of any kind unless all doors on the same have been removed.
- (b) It is the intention of this section to prohibit keeping, storing or using outside of any building, and it shall be unlawful to keep, store or have available outside any building, any such icebox, refrigerator, container or compartment to which a child may be able to gain entrance, where the child, with his own physical ability, shall not be able to leave the same as a result of his own effort, it being the intention to make unlawful the keeping, using or possessing of any such icebox, refrigerator or compartment which might endanger the life, limb, health or welfare of any child who might under any circumstances gain entrance to any such icebox, refrigerator, container or compartment.

Sec. 82-278. – Hunting.

It shall be unlawful for any person to hunt or pursue wild game within the city.

Sec. 82-279. – Carrying concealed weapons without license.

A person who shall carry a dagger, dirk, stiletto, brass knuckles or other dangerous weapon, except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his

dwelling house or place of business or on other land possessed by him, shall be guilty of a misdemeanor. A person who shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in a vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him, without a license to carry the pistol as provided by law or if licensed, carrying in a place or manner inconsistent with any restrictions upon such license, shall be guilty of a misdemeanor.

Sec. 82-280. – Archery range.

Any commercial or charitable organization desiring to operate an archery range may be licensed by the city council, provided that such application has satisfied the director of public safety that all standard precautions have been taken in the construction of the archery range, that the range is not dangerous to the neighbors or the public at large, and that informed personnel will at all times be responsible for proper supervision of the range in accordance with standard archery practices.

Sec. 82-281. – Restrictions on bow and arrow use and transportation.

- (a) No person shall discharge an arrow from a bow within the City of Berkley, except at a facility licensed for that purpose.
- (b) A person may not carry or transport a bow and arrow or a crossbow within the City of Berkley, unless the bow or crossbow is unstrung, enclosed in a case or carried in the trunk of a vehicle. A compound bow may also be carried or transported if its strings are locked.

Sec. 82-282. – CS devices.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

CS device: A device which is capable of carrying not more than 35 grams of any combination of active and inert ingredients and which ejects, releases or emits orthochlorobenzalmalonitrile but which does not eject, release or emit any other gas or substance which will either temporarily or permanently disable, incapacitate, injure or harm a person with whom the gas or substance comes in contact.

- (b) *Sale, furnishing or delivery to minors.* A person shall not sell, furnish or deliver a CS device to a minor. A person who violates this subsection is guilty of a misdemeanor.
- (c) *Possession by minor.* A minor shall not possess or control a CS device. A person who violates this subsection is guilty of a misdemeanor.
- (d) *Intentionally pointing, without malice, at another.* Any person who shall intentionally, without malice, point or aim any CS device at or toward any other person shall be guilty of a misdemeanor. This section does not apply to persons exercising their legal rights of self defense, defense of property or defense of others.

- (e) *Careless handling or discharge.* Any person who shall recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any CS device without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

Sec. 82-283. – Firearms, slingshots and airguns.

- (a) *Drawing or discharging.* Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person, shall be guilty of a misdemeanor. Any person who shall discharge a firearm or other instrument producing a like effect and noise within the city, except in lawful defense of his person or property, or as otherwise permitted by law, shall be guilty of a misdemeanor. Any person who shall maim or injure any other person by the discharge of any firearm pointed or aimed intentionally, without malice, at any such person shall be guilty of a misdemeanor.
- (b) *Shooting slingshots or air guns.* It shall be unlawful to use or shoot within the city a slingshot or air gun which is hereby defined to be any gun which shoots a projectile either by means of air pressure or spring for a distance of more than 25 feet. It shall be unlawful for the parent or guardian in charge or custody of any minor to knowingly permit any such minor to use or to shoot any slingshot or air gun.

Sec. 82-284. – Possession or use of firearm or other weapons by person under the influence.

An individual shall not carry, have in possession or under control, or use in any manner or discharge a firearm, dagger, dirk, stiletto, brass knuckles, or other dangerous weapon while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section.

- (a) If the individual is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of 0.10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$500, or both.
- (b) If the individual has a bodily alcohol content of 0.08 or more, but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or \$500, or both.
- (c) If the individual has a bodily alcohol content of 0.02 or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a municipal civil infraction and shall be fined \$100.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Penalty

Except as prescribed otherwise in Sec. 82-284, all violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

SECTION 4: Effective Date

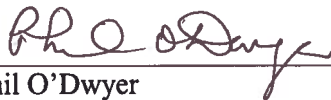
This Ordinance shall become effective 30 days following the date of adoption.

SECTION 5: Publication


The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, June 5, 2017.

Passed on the Second Reading at the Regular City Council Meeting on Monday, June 19, 2017.



Phil O'Dwyer
Mayor

Attest:


Phommady A. Boucher
City Clerk