

**Title:** Ordinance  
**Introduced by:** Alderman Kelly Russell  
**Date:**  
**Action:**

**Summary:**

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**ORDINANCE NO: G-24-\_\_\_\_\_**

**AN ORDINANCE concerning**

**FOR** the purpose of regulating the owning, wearing, carrying, displaying, transporting, discharging, or possessing air guns, air soft guns, B-B guns, imitation firearms, paint ball guns, pellet guns, replica or look-alike guns, or weapons in the City of Frederick.

**BY** repealing

Sec. 15-17

The Code of the City of Frederick, 1966 (as amended)

**BY** adding

Sec. 15-17

The Code of the City of Frederick, 1966 (as amended)

**SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Sec. 15-17 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed in its entirety and reenacted to read as follows:

**Section 15-17 Imitation/Replica Weapons—Possession and Discharge Within City.**

(a) **Definitions.** In this section, the following terms have the meanings given to them:

- (1) "Air gun" includes a small-caliber weapon, either a handgun or a shoulder weapon, from which pellets, bullets or darts are discharged by the expanding force of compressed air or gas. The term includes air guns called "air rifles," "BB guns," "gas guns," "spring-operated guns" and "air pistols."
- (2) "Air soft gun" includes a spring-operated, gas-operated, or battery-powered replica firearm made of hard plastic or light metal that fires plastic or other nonmetallic projectiles
- (3) "BB gun" includes a device, whether or not shaped like a pistol or a rifle, which propels a ball bearing, pellet, or other projectile by means of manually compressed air or a spring or other mechanical action.
- (4) "Dealer" includes a retailer who purchases goods or services for resale to consumers in a principal capacity.

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- (5) "Imitation firearm" includes a toy, a device, or an object that substantially duplicates or can reasonably be perceived to be a firearm or a handgun. "Imitation Firearm" does not include a toy, a device, or an object that complies with 15 U.S.C. §5001, and its implementing regulations in 15 C.F.R. §272.3.
- (6) "Minor" means a person under the age of 18.
- (7) "Paint ball gun" includes a replica firearm that is powered by compressed gas (carbon dioxide, nitrogen, or ordinary air) and fires dye-filled gelatinous capsules.
- (8) "Pellet gun" includes a device, whether or not shaped like a pistol or rifle, which propels a ball bearing, pellet, or other projectile by means of compressed air or other gas.
- (9) "Public place" means any place in the City that is either owned by a government agency or generally accessible to members of the public or a substantial portion of the public. "Public place" includes private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use. Public places include, but are not limited to streets, alleys, government-owned parking lots, parks, schools, the common areas and limited common areas of condominiums, exterior shopping center sidewalks, walkways, driveways, and the exterior sidewalks, parking areas and driveways of commercial businesses.
- (10) "Replica gun" includes a "look-alike firearm" or any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B-B, paintball, or pellet-firing air guns that expel a projectile through the force of air pressure.
- (11) "Weapon" includes any knife, explosive, or other object (sharp objects, sporting goods, tools, martial arts, and self-defense items) even if manufactured for a nonviolent purpose, that has a potentially violent use, or any "look-alike" object that resembles an object that has a potentially violent use.

**(b) Possession prohibited.**

- (1) Except as otherwise provided in subsection (2) of this section, no person may own or possess an air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon in the City.

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- (2) "Possession prohibited" does not apply if an air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon is:
- (A) actively being transported intrastate, interstate, or foreign commerce; or
  - (B) used primarily for:
    - (i) the production of a television program, a theatrical or motion picture presentation, or a historical reenactment, provided the use complies with all applicable laws, rules, or regulations concerning the use,
    - (ii) a firearm training class taught by a certified qualified firearm instructor pursuant to Maryland law,
    - (iii) competitions, or training for competitions, that test the shooting skills of competitors,
    - (iv) display or use on real property owned by the owner of the air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon, provided the display or use complies with all applicable laws, rules, or regulations concerning the display or use, or
    - (v) a law enforcement agency.
- (c) **Sale or transfer.**
- (1) A dealer may not sell, lend, rent, give, or otherwise transfer an air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon to any minor, where the dealer knows, or has reasonable cause to believe, the person is a minor, or where such dealer has failed to make reasonable inquiry relative to the age of such person, and such person is a minor.
  - (2) A person may not sell, give, lend, or otherwise transfer any air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon to a minor, except where the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between the person and the minor.
- (d) **Wearing, Carrying, Transporting, Displaying, or Discharging/Allowing Violations.**
- (1) Except as otherwise provided in this paragraph, a person may not wear, carry, or transport any air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon in a public place. A person may carry or transport an

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air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon unloaded in a suitable case or securely wrapped.

- (2) A person may not discharge any air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon from or across a public place, except on a properly constructed target range.
  - (3) A person may not display or brandish an air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon in a manner that causes another person to:
    - (A) reasonably believe that the air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon is an operable firearm; or
    - (B) fear imminent bodily injury from a firearm.
  - (4) Except as provided in subsection (1) of this section, a person may not wear, carry, or transport any air gun, air soft gun, BB gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon in a public place concealed on their person or in any bag, backpack, vehicle, or other article which may conceal the air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon.
  - (5) An adult may not willfully contribute to, encourage, allow, permit, cause or tend to cause any act, omission, or condition which results in a violation of this section by a minor. A person may be convicted under this provision even if a minor has not been found to have committed a violation of this section.
- (e) **Exceptions.** Nothing in this section makes it unlawful for a person to carry or possess an air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon, if it is:
- (1) kept within the individual's domicile,
  - (2) used by a minor who is a duly enrolled member of any club, team or society organized for educational purposes and maintaining as part of its facilities or having written permission to use an indoor or outdoor rifle range under the supervision, guidance and instruction of a responsible adult, and then only, if said air rifle is actually being used in connection with the activities of said club, team or society under the supervision of a responsible adult, or
  - (3) used in or on any private grounds or residence under circumstances when such air rifle can be fired, discharged, or operated in such a manner as not to endanger persons or property, and then only, if it is used in such manner as to prevent the projectile from transversing any grounds or space outside the limits of such grounds or residence.

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**(f) Removing or obscuring markings, etc.**

- (1)** A person may not remove or obscure:
  - (A)** the blaze orange tip required to be on a replica firearm under 15 U.S.C. §5001; or
  - (B)** any other colors or markings required to be on a replica firearm under federal or state law.
- (2)** A person may not possess a replica firearm on which the blaze orange tip required by 15 U.S.C. §5001, or any other colors or markings required by city ordinance or state, or federal law has been removed or obscured.

**(g) Seizure.**

A law enforcement officer may seize, take, remove, or cause to be removed, at the expense of the owner, any air gun, air soft gun, B-B gun, imitation firearm, paint ball gun, pellet gun, replica gun, or weapon used, displayed, carried, or offered for sale in violation of this section.

**(h) Enforcement.**

- (1)** A person who violates subsection (b) or (c) of this section is guilty of a municipal infraction and on conviction is subject to the following penalties:
  - (A)** A first violation of subsection (b) of this section is punishable by a fine not exceeding \$100 for each violation. A second or subsequent violation of that subsection is punishable by a fine not exceeding \$250.
  - (B)** A first violation of subsection (c) of this section is punishable by a fine not exceeding \$250. A second or subsequent violation of that subsection is punishable by a fine not exceeding \$500.
- (2)** A person who violates subsection (d) or (f) of this section is guilty of a misdemeanor and on conviction is subject to the following penalties:
  - (A)** A first violation of subsection (d) of this section is punishable by imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both. A second or subsequent violation of subsection (d) is punishable by imprisonment not exceeding 3 years or a fine not exceeding \$2,500, or both.
  - (B)** A first violation of subsection (f) of this section is punishable by imprisonment not exceeding 30 days or a fine not exceeding \$500 or both.

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A second or subsequent violation of subsection (f) is punishable by imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

- (4) The issuance of a civil citation to enforce this section does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**SECTION II. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this ordinance shall take effect on the date it is approved by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**

**DATE:**

\_\_\_\_\_  
**Michael C. O'Connor, President,  
Board of Aldermen**

**APPROVED:**

**DATE:**

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**Michael C. O'Connor, Mayor**

**Approved for Legal Sufficiency:**  
  
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