

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2018

COUNCIL BILL NO. 17-1400
COMMITTEE OF REFERENCE:
Safety, Housing, Education & Homelessness

A BILL

For an ordinance amending Section 38-130, D.R.M.C. concerning the regulation of assault weapons, banning bump stock firing mechanisms, and conforming the maximum capacity of ammunition magazines to state law.

WHEREAS, the City Council of the City and County of Denver (the “City Council”) has previously enacted Section 38-130 of Chapter 38 of the Denver Revised Municipal Code, relating to assault weapons, after finding that the use of assault weapons poses a threat to the health, safety, and security of all citizens of the City and County of Denver (the “City”), that assault weapons are capable both of a rapid rate of fire as well as of a capacity to fire an inordinately large number of rounds without reloading and are designed primarily for military or antipersonnel use, and that law enforcement agencies report increased use of assault weapons for criminal activities resulting in a record number of related homicides and injuries to citizens and law enforcement officers;

WHEREAS, the City Council has found the use of bump stock firing mechanisms allow semi-automatic assault weapons to mimic the firing speed of automatic weapons, that this rapid rate of fire contributed to an inordinate number of deaths and casualties in the October 1, 2017 shooting in Las Vegas, Nevada, and that the City could be susceptible to the dangers of bump stock firing mechanisms.

WHEREAS, the City Council has found that bump stock firing mechanisms are not currently regulated by the federal government or the state government;

WHEREAS, the City Council has determined that amending and narrowly tailoring the existing assault weapons ordinance to ban bump stock firing mechanisms is in the interest of the public health, safety, and welfare of the City’s residents; and

WHEREAS, the City Council has determined that the existing assault weapons ordinance should be updated based on recent state law changes.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That subsections (b) and (c) of section 38-130 of the Denver Revised Municipal

Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

(b) *Definitions*. The following words and phrases, when used in this section, shall have these meanings respectively ascribed to them:

(1) *Assault weapon* shall include all firearms with any of the following characteristics:

a. All semiautomatic action, centerfire rifles with a detachable magazine with a capacity of ~~twenty-one (21)~~ or more than fifteen (15) rounds.

b. All semiautomatic shotguns with a folding stock or a magazine capacity of more than six (6) rounds or both.

c. Reserved.

d. Any firearm which has been modified to be operable as an assault weapon as defined herein.

e. Any part or combination of parts designed or intended to convert a firearm into an assault weapon, including a detachable magazine with a capacity of ~~twenty-one (21)~~ or more than fifteen (15) rounds, or any combination of parts from which an assault weapon may be readily assembled if those parts are in the possession or under the control of the same person.

(2) *Bump stock* shall mean any device for a pistol, rifle, or shotgun that increases the rate of fire achievable with such weapon by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

~~(23)~~ *Fixed cartridge* shall mean that self-contained unit consisting of the case, primer, propellant charge and projectile or projectiles.

~~(34)~~ *Magazine* shall mean a box, drum or other container which holds and feeds ammunition into a semiautomatic rifle, shotgun or pistol.

~~(45)~~ *Pistol* shall mean a weapon originally designed, made and intended to fire a projectile (bullet) from one (1) or more barrels when held in one (1) hand and having:

a. A chamber as an integral part of or permanently aligned with the bore or having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing; and

b. A short stock designed to be gripped by one (1) hand and at an angle to and extending below the line of the bore(s).

~~(56)~~ *Rifle* shall mean a weapon designed or redesigned, made or remade and intended to be fired from the shoulder or hip and designed or redesigned or made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of

the trigger and shall include any such weapon which may be readily restored to fire a fixed cartridge.
(67) *Semiautomatic* shall mean a weapon which fires a single projectile for each single pull of the trigger which automatically chambers the next round for firing and which employs a magazine.

(78) *Shotgun* shall mean a weapon designed or redesigned, made or remade and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(c) *Specific weapons not included.* As used in this section, *assault weapon* does not include any of the following:

(1) All weapons that do not use fixed cartridges, all weapons that were in production prior to 1898, all manually operated bolt-action weapons, all lever-action weapons, all slide-action weapons, all single-shot weapons, all multiple-barrel weapons, all revolving-cylinder weapons, all semiautomatic weapons for which there is no fixed magazine with capacity of ~~twenty-one (21)~~ or more than fifteen (15) rounds available, all semiautomatic weapons that use exclusively en bloc clips, all semiautomatic weapons in production prior to 1954 and all rimfire weapons that employ a tubular magazine.

Section 2. That subsections (e) of section 38-130 of the Denver Revised Municipal Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

(e) *Possession of assault weapons unlawful.* It shall be unlawful to carry, store, keep, manufacture, sell or otherwise possess within the City and County of Denver a weapon or weapons defined herein as assault weapons, except that this subdivision shall not apply to:

(1) Any federal, state or local government agency or to any sworn members of said agencies acting within their official capacities.

(2) Any assault weapon which is being used as a movie prop for any motion picture or television program which is being filmed in whole or in part within the City and County of Denver if, prior to such use, the police department is notified in advance in writing of the date, time, location, production schedule and days upon which such use shall take place and the type and serial numbers of the firearms.

(3) It shall be an affirmative defense to charges brought under this section that the transportation of an assault weapon:

(a) Is through the city by a nonresident who is in legal possession of an assault weapon; or

- (b) Is by a person carrying a permit issued under subsection (f) and the transportation is for one (1) of the following purposes:
- i. In aid of the civil power when thereto legally summoned;
 - ii. To a bona fide hunting trip for wild game, or to a legitimate sporting use of such weapon, including shooting matches or target trap or skeet shooting. All weapons carried for such purposes shall be unloaded;
 - iii. While transporting such weapon to or from a place for sale outside the city or for repair. All weapons carried for such purposes shall be unloaded at all times;
 - iv. As a member of the armed forces of a state or of the federal government while engaged in the lawful performance of duty;
 - v. In conjunction with moving personal property, including such weapon, from an old residence to a new residence. All weapons carried for such purposes shall be unloaded at all times.

Section 3. That subsections (i) through (k) of section 38-130 of the Denver Revised Municipal Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

(i) *Specific magazine prohibited.* It shall be unlawful to carry, store or otherwise possess a magazine which will hold or may be modified to hold ~~twenty-one (21) or more~~ than fifteen (15) rounds, except that this subsection shall not apply to:

(1) Any federal, state or local government agency or to any sworn members of said agencies acting within their official capacities.

(2) Any magazine which is being used as a movie prop for any motion picture or television program which is being filmed in whole or in part within the City and County of Denver if, prior to such use, the police department is notified in advance in writing of the date, time, location, production schedule and days upon which such use shall take place and the type and serial numbers of the firearms.

(3) It shall be an affirmative defense to charges brought under this section that the transportation of a magazine:

(a) Is through the city by a nonresident who is in legal possession of the magazine; or

(b) Is by a person carrying a permit issued under subsection (f) and the transportation is for one (1) of the following purposes:

i. In aid of the civil power when thereto legally summoned;

- 1 ii. To a bona fide hunting trip for wild game, or to a legitimate sporting use of such
2 magazine, including shooting matches or target trap or skeet shooting;
3 iii. While transporting such magazine to or from a place for sale outside the city;
4 iv. As a member of the armed forces of a state or of the federal government while
5 engaged in the lawful performance of duty;
6 v. In conjunction with moving personal property, including such magazine, from an old
7 residence to a new residence.

8 (j) *Bump stock prohibited.* It shall be unlawful to sell, carry, store, or otherwise possess a
9 bump stock.

10 (jk) *Penalty.* Any person, firm or corporation who is convicted of violating any provision of this
11 section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than nine
12 hundred ninety-nine dollars (\$999.00) and a term of incarceration of not less than ten (10) days nor
13 more than one hundred eighty (180) days.

14 (kl) *Violation; disposition.* Upon a conviction of violating any provision of this section, the
15 weapon shall be confiscated and destroyed under section 38-120, disposition of confiscated weapons.

16
17 COMMITTEE APPROVAL DATE: January 3, 2018

18 MAYOR-COUNCIL DATE: January 9, 2018

19 PASSED BY THE COUNCIL _____

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER
25

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

27 PREPARED BY: Kirsten Crawford; DATE: January 11, 2018

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
31 3.2.6 of the Charter.
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33 Kristin M. Bronson, Denver City Attorney

34 BY: _____, Assistant City Attorney DATE: _____
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