

ORDINANCE NO. 1890

AN ORDINANCE DELETING THE PROHIBITION OF GUNS IN CEMETERIES IN THE CITY OF DANVILLE, KENTUCKY CODE OF ORDINANCES CHAPTER 5 ARTICLE I SECTION 5-11 AND REVISING THE LANGUAGE PERTAINING TO THE CARRYING OF DEADLY WEAPONS BY CITATION OFFICERS IN CHAPTER 2 ARTICLE III DIVISION 7 SECTION 2-95 SO AS TO COMPLY WITH KRS 65.870.

WHEREAS, KRS 65.870 was enacted by the Kentucky General Assembly stating that “no existing or future city . . . may occupy any part of the field of regulation of the manufacture, sale, purchase, taxation, transfer, ownership, possession, carrying, storage, or transportation of firearms, ammunition, components of firearms, components of ammunition, firearms accessories, or combination thereof”; and

WHEREAS, said statute further required that “any existing or future ordinance, executive order, administrative regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this section or the spirit thereof is hereby declared null, void, and unenforceable” and mandated that cities “shall repeal, rescind, or amend to conform, any ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action in violation of this section or the spirit thereof”; and

WHEREAS, City of Danville Ordinance 1321 enacted on December 23, 1983, prohibited guns to be taken on the grounds of the City's cemeteries and was codified in Chapter 5, Article 1, Section 5-11 of the City of Danville Code of Ordinances and seemingly violates KRS 65.870; and

WHEREAS, City of Danville Ordinance 1708 enacted on October 9, 2006, restricted citation officers from carrying deadly weapons and seemingly violates KRS 65.870 even though the intention of the City was to create a cost-efficient position to assist with traffic control, funeral processions, and parking citations without formal training imposed by KRS 95.955, which requires certain training prior to carrying deadly weapons and says mandates

that "any police officer or auxiliary police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer or from membership on the auxiliary police force";

WHEREAS, the Board of Commissioners of the City of Danville, Kentucky desires to comply with the requirement of KRS 65.870 and deems it necessary and appropriate to delete the prohibition of guns in its cemeteries and revise the language pertaining to citation officers in its existing code of ordinances regulating firearms;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DANVILLE, KENTUCKY, as follows:

SECTION 1. Chapter 5 (Cemeteries) Article I (In General) Section 5-11 (Guns Prohibited) shall be deleted in its entirety as follows:

~~Sec. 5-11 (Guns Prohibited).~~

~~No guns shall be permitted to be taken on the grounds of the cemetery.~~

SECTION 2. Chapter 2 (Administration), Article III (Officers), Division 7 (Citation Officers), Section 2-95 shall be amended to read as follows:

(a) The City Commission may authorize certain employees as "citation officers". The legislative body of the city may authorize the duties of citation officers as needed. Citation officers shall have the qualifications prescribed by ordinance.

(b) No person shall be appointed as a citation officer unless he or she is:

- (1) At least twenty-one (21) years of age; and
- (2) A citizen of the United States; and
- (3) Have a valid Kentucky driver's license; and

(4) Is a high school graduate or has received a General Equivalency Diploma (G.E.D.); and

(5) No person who has been convicted of a felony is eligible for appointment.

(c) Before entering upon his/her duties of office, a citation officer shall take the oath as prescribed by Kentucky Constitution § 228.

(d) If required by the City Commission, a bond in such amount as may be fixed by the City Commission, shall be filed with the City Clerk.

(e) The City Manager shall make the appointment with approval of the Commission. The citation officer shall serve at the pleasure of the City Commission. The citation officer shall file a monthly report with the City Commission on the first day of each month reporting on activities for the previous month. The City Manager may delegate to the Chief of Police or other officer or employee of the city the superintendence over the citation officer.

(f) Citation officers shall not have the power of peace officers to make arrests or ~~carry deadly weapons~~ and shall not therefore complete the training prescribed in KRS 95.955, but may issue citations as authorized by ordinance upon observance of:

(1) Non-moving motor vehicle offenses.

(2) Violations of ordinances except for moving motor vehicle offenses and except for offenses which constitute a violation of the Kentucky Penal Code.

(3) Any other duties prescribed by the City Commission and not contrary to state law.

(g) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

(h) This section shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005.

SECTION 3. The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance, or the application thereof to any particular case, is for any reason found to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses, sections or part of this Ordinance.

GIVEN FIRST READING AND PASSED _____

GIVEN SECOND READING AND PASSED _____

PUBLISHED BY DANVILLE ADVOCATE-MESSENGER _____

APPROVED:

G. MICHAEL PERROS, MAYOR
CITY OF DANVILLE, KENTUCKY

ATTEST:

DONNA PEEK, CITY CLERK
CITY OF DANVILLE, KENTUCKY

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