From:	Jim Nugent
To:	Bryan von Lossberg
Cc:	Grp. City Council and City Web Site; Dept. Mayors Office; Dept. City Clerk; Jaeson White; Scott Hoffman; Laurie Clark; Donna Gaukler; Shirley Kinsey; Tiffany Brander; Ellen Buchanan; Eran Pehan; Jeff Brandt; Leigh Griffing; Kathy Crego; Rob Gannon; Dept. Attorney
Subject:	RE: LR-130 adopted voter firearms legislative initiative goes into effect 1/1/2021. City may no longer prevent carrying of weapons at public assemblies, public parks, schools and polling places not located at publicly owned buildings.
Date:	Tuesday, November 10, 2020 9:41:09 AM

TO WHOM IT MAY CONCERN:

Of course our office will assist the city council to adopt Missoula Municipal Code (MMC) amendments that would be required by LR-130's deletions within subsection 45-8-351 Montana Code Annotated (MCA) pertaining to local government powers with respect to power to prevent and suppress the carrying of unpermitted concealed weapons or the carrying of concealed weapons LR-130 amended subsection 45-8-351(2) MCA narrowed and limited the powers of Montana local governments to the power to prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons to a publicly owned and occupied building under its jurisdiction.

My intent was to recommend Missoula Municipal Code (MMC) amendments necessitated/required by LR-30 amendment to subsection 45-8-351(2) MCA. However, there are a couple of potential gray areas of law pursuant to LR-130 that might require some direction from a majority of the city council as to what amendments are desired for section 8.58.010 Missoula Municipal Code to facilitate drafting the amendments as desired by a majority of the city council.

LR-130 narrowed/limited Montana local government powers to prevent the carrying of unpermitted concealed weapons or the carrying of concealed weapons to a publicly owned and occupied building under its jurisdiction, by inserting the word "unpermitted" into subsection 45-8-351(2) MCA; which is expected to mean/authorize only concealed weapons pursuant to Montana's concealed weapon permit process via county sheriff reviews.

What does the phrase "publicly owned and occupied building under its jurisdiction" mean? Is it limiting jurisdiction to buildings that are publicly owned and controlled by the City? Or does it mean publicly owned and occupied buildings within the city limits? Such as a publicly owned and occupied building such as a new public library that is located on city owned land? Assuming that "publicly owned and occupied building under its jurisdiction" means within the city limits; the City of Missoula could still address weapons within publicly owned and occupied buildings within the city limits, that are not owned or controlled by the City of Missoula.

In addition, to the above identified uncertainty/vagueness about the meaning of the phrase "publicly owned and occupied building under its jurisdiction"; it must be noted and emphasized that LR-130 amended subsection 45-8-351(2) MCA explicitly deletes the power of Montana local governments to prevent and suppress the carrying of weapons at or into:

(1) Public assemblies; LR-130 would not allow city to regulate weapons possession at outdoor public assemblies, such as parks, courthouse lawn; etc..

(2) parks;
(3) schools; (note this is arguably another gray area. The amendments to subsection 45-8-351(2) MCA clearly delete the word "schools". However, are schools able to be protected/regulated pursuant to the authorization to regulate "publicly owned and occupied buildings under its jurisdiction" ?
(4) possession of firearms by convicted felons, adjudicated mental incompetents, illegal aliens, and minors.

These amendments go into effect January 1, 2021.

The amendments to subsection 45-8-351(2) MCA mean that the City must amend section 8.58.010 Missoula Municipal Code (MMC) to delete Missoula Municipal Code provisions such as:

(1) public parks;
(2) any public election polling places; (this is not clear, depending if "jurisdiction" means within the city limits; or alternatively means owned and controlled by the City of Missoula.);
(3) public school buildings; and
(4) any other locations of public assembly where persons gather together to conduct and/or administer any public election related activities are taking place. This would affect polling places, such as a senior citizens center . Also, depending on the correct interpretation/application of the phrase "publicly owned and occupied building under its jurisdiction"; it could apply to all polling places; except a polling place at a city owned and controlled building.

Some desired city council direction will be needed. will await some direction from the city council with respect to addressing potential gray areas prior to bringing a draft to a city council committee.

JIM NUGENT

From: Bryan von Lossberg <BvonLossberg@ci.missoula.mt.us>
Sent: Monday, November 9, 2020 5:16 PM
To: Jim Nugent <NugentJ@ci.missoula.mt.us>
Cc: Grp. City Council and City Web Site <Council@ci.missoula.mt.us>; Dept. Mayors Office <DeptMayor@ci.missoula.mt.us>; Dept. City Clerk <CLERK@ci.missoula.mt.us>; Jaeson White <WhiteJ@ci.missoula.mt.us>; Scott Hoffman <HoffmanS@ci.missoula.mt.us>; Laurie Clark <ClarkL@ci.missoula.mt.us>; Donna Gaukler <GauklerD@ci.missoula.mt.us>; Shirley Kinsey <KinseyS@ci.missoula.mt.us>; Tiffany Brander <Brandert@ci.missoula.mt.us>; Ellen Buchanan <buchanane@ci.missoula.mt.us>; Eran Pehan <PehanE@ci.missoula.mt.us>; Jeff Brandt <BrandtJ@ci.missoula.mt.us>; Leigh Griffing <GriffingL@ci.missoula.mt.us>; Kathy Crego <CregoK@ci.missoula.mt.us>; Rob Gannon <GannonR@ci.missoula.mt.us>; Dept. Attorney <Atty@ci.missoula.mt.us>
Subject: Re: LR-130 adopted voter firearms legislative initiative goes into effect 1/1/2021. City may no longer prevent carrying of weapons at public assemblies, public parks, schools and polling places not located at publicly owned buildings.

Thank you, Jim. Yes, I am intimately familiar with this matter. Will your office be providing

specifics around incompatibilities between existing Missoula municipal code and LR-130?

Bryan von Lossberg
Alderman, Missoula City Council - Ward 1
City Council President
(406) 552-7806

On Nov 9, 2020, at 4:24 PM, Jim Nugent <NugentJ@ci.missoula.mt.us> wrote:

MAYOR and CITY COUNCIL:

Some City of Missoula city Municipal Code amendments are necessary as a result of the statewide voter passage of LR-130.

JIM NUGENT