From:	J. Kevin Hunt
To:	Grp. City Council and City Web Site
Subject:	Response to VP Von Lossberg
Date:	Wednesday, June 17, 2020 6:36:57 PM

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From: **J. Kevin Hunt** <jkhesq23@gmail.com>
Date: Wed, Jun 17, 2020, 5:19 PM
Subject: Re: You CAN prohibit open carry at demonstrations
To: Bryan von Lossberg <BvonLossberg@ci.missoula.mt.us>

Council Vice President Von Lossberg:

Thank you very much for your prompt reply.

I suggest that you review the proposed ordinance I have emailed to the Mayor and Council, which I submit is superior to what you have adopted, with respect to public assemblies.

As far as County jurisdiction over the courthouse lawn is concerned, that is, of course, not a basis for rejecting this proposal. It would take ten seconds to amend the proposal by changing "within the boundaries of the City of Missoula" to "subject to the jurisdiction of the City of Missoula."

This proposal is not prohibited by the Fox decision that invalidated Missoula's former background check ordinance.

The County Commission could adopt a version of this ordinance that applied specifically to places within the boundaries of the City of Missoula that are subject to County jurisdiction.

In sum, you make valid points, none of which, however, makes a cogent case against this proposal given the ease with which it may be tweaked to accommodate the County's jurisdiction over some venues located within the Missoula city limits.

Thanks again for your prompt reply. We should not wait for the outcome of the statewide ballot measure before adopting this ordinance. We dodged a bullet on June 5 and as I'm sure you are aware, armed, openly-carrying white vigilantes shot and killed an anti-colonial statue demonstrator in Albequerque the other day. (See, link subjoined hereto).

Failure to act swiftly will, I predict, not bode well for re-election prospects of Councilpersons, a consideration totally eclipsed by the terror people of color are experiencing in Missoula.

The Montana Constitutional right to peaceably assemble is easily frustrated by those with rifles, a point the Montana Legislature recognized in enacting MCA 45-8-351.

Regards,

/s/ J. Kevin Hunt

https://www.google.com/amp/s/amp.theguardian.com/us-news/2020/jun/17/armed-vigilantes-under-scrutiny-after-statue-protester-shot-new-mexico

On Wed, Jun 17, 2020, 3:45 PM Bryan von Lossberg <BvonLossberg@ci.missoula.mt.us> wrote:

> Mr. Hunt,
>
> Through Council action in the fall of 2018, the City exercised its power under 45-8-351 to prohibit firearms for public safety purposes in several designated areas. The details are available in Missoula code 8.58
> here: https://www.ci.missoula.mt.us/DocumentCenter/View/1029/Municipal-Code-Title-08-Health--Safety?bidId=#Chapter_8_58
>
> One of the key issues we were trying to address was safety at election locations (since some were not at schools). And we were also codifying long-standing administrative policy at developed parks prohibiting firearms.
>
> The County Courthouse lawn is an area under the County's jurisdiction.
>
> It is worth noting that Caras Park is identified in 8.58.010 Exhibit A as an area where firearms are prohibited.
>
> It is also worth noting that LR-130 is on the ballot in November and will strip local jurisdictions of some of these powers should it pass.
>
> Regards,
> Bryan
>
> Bryan von Lossberg
> Alderman, Missoula City Council - Ward 1
> City Council President
> 522 Howell St
> Missoula, MT 59802
> (406) 552-7806
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> On Jun 17, 2020, at 3:01 PM, J. Kevin Hunt <jkhesq23@gmail.com> wrote:
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> June 16, 2020
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> Mayor and Council:
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> Contrary to Mayor Engen's claims, it appears that Missoula CAN prohibit open carry of firearms at demonstrations. The 2019 Montana Code Annotated provides (see, section 2):
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>
> 45-8-351. Restriction on local government regulation of firearms.

(1) Except as provided in subsection (2), a county, city, town, consolidated local government, or other local government unit may not prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including a rifle, shotgun, handgun, or concealed handgun.

(2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and handguns. A county, city, town, consolidated local government, or other local government unit has power to prevent and suppress the carrying of concealed or unconcealed weapons to a public assembly, publicly owned building, park under its jurisdiction, or school, and the possession of firearms by convicted felons, adjudicated mental incompetents, illegal aliens, and minors.

(b) Nothing contained in this section allows any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others or to prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise.

(c) A local ordinance enacted pursuant to this section may not prohibit a legislative security officer who has been issued a concealed weapon permit from carrying a concealed weapon in the state capitol as provided in 45-8-317.

Why don't you either adopt an ordinance permitted by section 2, or refer one to Missoula voters for consideration?

/s/ J. Kevin Hunt
Ward 1

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