BILL NO.: **4971** **ORDINANCE NO.:** **4802**

Introduced by: City Manager Nathan Mai-Lombardo

AN ORDINANCE CREATING AN UNLAWFUL DISPLAY OF A FIREARM POLICY *(THE CITY COUNCIL DOES HEREBY FIND AND DECLARE THAT AN EMERGENCY EXISTS WHICH REQUIRES THE IMMEDIATE PASSAGE OF THIS ORDINANCE FOR THE PRESERVATION OF THE WELFARE OF THE CITIZENS OF THE CITY OF BERKELEY.)*

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. The City Council hereby adopts an Unlawful Display of a Firearm Policy.

Section 2. The Policy is attached and incorporated hereto as if fully set forth herein.

Section 3. This ordinance shall be codified and made part of the City of Berkeley Code of Ordinances as set out herein or as the codifier so sees fit.

Section 4. This Ordinance shall be in full force and effect from and after its date of passage.

Section 5. The City does hereby find and declare that an emergency exists which requires the immediate passage of this ordinance for the preservation of the welfare of the citizens of the City of Berkeley.

1st Reading this 18th day of September 2023

2nd Reading this 18th day of September 2023

3rd Reading, PASSED and APPROVED, this **18th day of September 2023**

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye X	Nay ___	Absent __	Abstain __
Councilwoman Williams	Aye X	Nay ___	Absent __	Abstain __
Councilman Hoskins	Aye X	Nay ___	Absent __	Abstain __
Councilwoman Anthony	Aye X	Nay ___	Absent __	Abstain __
Councilman Hindeleh	Aye X	Nay ___	Absent __	Abstain __
Councilwoman-at-Large Crawford-Graham	Aye X	Nay ___	Absent __	Abstain __
Mayor Deinbo	Aye X	Nay ___	Absent __	Abstain __

Unlawful Display of a Firearm

1. A person commits the ordinance violation of unlawful use of a firearm if he or she knowingly openly carries or displays a firearm readily capable of lethal use in the City of Berkeley, Missouri unless the person has been issued a valid Missouri concealed carry endorsement or permit or a valid concealed carry permit issued by another state or political subdivision of another state that is recognized by the State of Missouri and displays the concealed carry endorsement or permit upon demand of a law enforcement officer except as provided in Subsection 3 of this Section.

2. Definitions:

    a. The term "Firearm" as used in this Chapter means any rifle, shotgun, weapon, or similar mechanism by whatever name known, which is designed to expel a projectile or projectiles through a gun barrel, tube, pipe, cylinder or similar device by the action of any explosive. The term "Firearm" shall not apply to devices used exclusively for commercial, industrial, or vocational purposes.

3. Subsection 1 of this Section shall not apply to or affect any of the following:

    a. All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to RSMo 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in RSMo 571.030.12, and who carry the identification defined in RSMo 571.030.13, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
    b. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
    c. Members of the armed forces or national guard while performing their official duty;
    d. Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
    e. Any person whose bona fide duty is to execute process, civil or criminal;
    f. Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
    g. Any state probation or parole officer, including supervisors and members of the board of probation and parole;

h. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Missouri department of public safety under RSMo 590.750;
i. Any coroner, deputy coroner, medical examiner, or assistant medical examiner,
j. Any municipal or county prosecuting attorney or assistant prosecuting attorney; circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under RSMo 571.111.2;
k. Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid Missouri concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit issued under RSMo 571.101 to 571.121, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties;
l. Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid Missouri concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
m. Any persons who are engaged in a lawful act of defense pursuant to RSMO 563.031.

4. Subsection 1 of this Section shall not be construed to preclude the use of a firearm in accordance with RSMO 252.243.

5. Penalties

    a. Any person 18 years of age or older violating Section 1 shall upon conviction be punished by a fine of not less than Twenty-Five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), or by imprisonment in the County Jail for not more than one (1) year, or by both such fine and imprisonment.
    b. Any person under 18 years of age violating Section 1 shall upon conviction be punished by a fine of not less than Twenty-Five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), or by community service for a period of hours to be determined by the court, or by both such fine and community service.

6. Subsection 1 of Chapter _____ shall not apply under the following circumstances:

    a. A person with a valid Missouri concealed carry endorsement or permit or a valid concealed carry permit issued by another state or political subdivision of another state that is recognized by the State of Missouri who openly carries or displays a firearm readily capable of lethal use without having their concealed carry endorsement or permit in their possession may be punished by a fine of not more than Thirty-Five Dollars ($35.00).
    b. A person with a valid Missouri concealed carry endorsement or permit or a valid concealed carry permit issued by another state or political subdivision of another

state that is recognized by the State of Missouri who openly carries or displays a firearm readily capable of lethal use who fails to display their concealed carry endorsement or permit upon demand of a law enforcement officer may be punished by a fine of not more than Thirty-Five Dollars ($35.00).