



DATE: February 22, 2022

CATEGORY: Public Hearing

DEPT.: City Attorney's Office,
Police

TITLE: **Introduce an Ordinance Requiring
the Safe Storage of Firearms in
Residences and Vehicles**

RECOMMENDATION

Introduce an Ordinance of the City of Mountain View Adding Article V to Chapter 21 of the Mountain View City Code Relating to the Safe Storage of Firearms in Residences and Vehicles in the City of Mountain View, to be read in title only, further reading waived, and set second reading for March 8, 2022 (Attachment 1 to the Council report).

BACKGROUND

On September 3, 2019, the City Council considered adding measures related to firearm safety as a Council priority in light of the Gilroy Garlic Festival shooting that occurred that year. At the September 17, 2019 meeting, staff returned with a brief report, and Council directed staff to return to Council with a report on gun safety legislation in other California cities and recommend legislation that would be most effective, reasonable to implement, and that staff could accomplish alongside the established priorities of the City Council's Major Goals Work Plan.

At a January 28, 2020 Study Session, the City Attorney's Office presented four options for Council's consideration. Council directed staff to prepare an ordinance prohibiting possession of firearms on all City properties and an ordinance relating to the safe storage of firearms in homes and vehicles. Council declined to pursue other regulations, which involve prohibiting firearms sales as a home occupation and imposing locational restrictions on firearms dealers. On February 4, 2020, Council modified its Fiscal Year 2019-20 and Fiscal Year 2020-21 Major Goals Work Plan to move forward with only the ordinance prohibiting possession of firearms on all City property. On April 27, 2021, Council adopted an ordinance prohibiting the possession of firearms on City property and directed staff to add a safe storage ordinance as an item to be considered for inclusion in the City's Strategic Roadmap Action Plan. On June 8, 2021, Council adopted the Strategic Roadmap Action Plan for Fiscal Years 2021-23, which included the development of a safe storage of firearms ordinance.

ANALYSIS

The proposed ordinance adds Article V to Chapter 21 of the Mountain View City Code to address the safe storage of firearms in the City of Mountain View. This proposed ordinance responds to Council's direction and its intent to protect public safety and to reduce the risk of firearm-related injuries and deaths, including suicide and accidental deaths, while also ensuring a clear and reasonable directive that helps gun owners understand and adopt safe storage practices for their firearms in their residences and vehicles.

The proposed ordinance is intended to serve several goals: (1) protect the safety of members of the public, in particular, children and youth; (2) reduce the potential for firearm-related fatalities and injuries, whether accidental or intentional; (3) reduce the chance of minors accessing firearms and causing harm to themselves or others; (4) reduce suicides, the majority of which occur by use of firearms; (5) reduce firearm-related domestic violence injuries and deaths; and (6) prevent theft of firearms in order to protect gun owners and the public as a whole from the subsequent illicit sale of stolen firearms, including their subsequent use in crimes.

Per the United States Centers for Disease Control and Prevention, in 2019, 39,707 people in the United States lost their lives in firearm-related incidents, including homicides, suicides, and unintentional shootings; approximately 109 people die from a firearm-related injury each day.¹ Of those deaths, 23,941 (nearly 60%) were due to suicide, and 486 were due to accidental discharge of weapons.² According to Brady United, 115,551 people suffer from firearm-related injuries each year, of which almost 8,000 are minors.³

Studies have found that safe storage of a firearm and keeping the firearm unloaded both decrease the risk for suicide.⁴ Further, studies have found that the vast majority of guns used in youth suicides, unintentional shootings among minors, and school shootings perpetrated by minors are acquired from the minor's home or from the homes of relatives or friends.⁵

¹ Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS): <https://wisqars.cdc.gov/fatal-reports>.

² *Ibid.*

³ Brady: United Against Gun Violence, Key Statistics: <https://www.bradyunited.org/key-statistics>.

⁴ Grossman DC, Mueller BA, Riedy C, et al., Journal of the American Medical Association, Gun storage practices and risk of youth suicide and unintentional firearm injuries. 2005; 293(6):707-714.

⁵ Everytown for Gun Safety Support Fund, Unload, Lock, and Separate: Secure Storage Practices to Reduce Gun Violence: <https://everytownresearch.org/report/unload-lock-and-separate-secure-storage-practices-to-reduce-gun-violence/>.

Hundreds of thousands of guns are stolen each year, and gun theft is a significant contributor to the illegal gun market.⁶ The United States Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) estimates approximately 10% to 15% of stolen guns are used in subsequent crimes.⁷ Gun owners who safely store their firearms experience gun thefts at a lower rate than those who do not.⁸

The effects of gun violence regionally are substantial. The County of Santa Clara Public Health Department reports that in 2016, 11% of injury deaths within the County were due to firearms.⁹ In Santa Clara County, the cities of Sunnyvale, Los Altos, San Jose, Palo Alto, Morgan Hill, as well as the unincorporated areas of Santa Clara County, require safe storage of firearms in residences. The cities of San Francisco and Oakland have adopted ordinances requiring the safe storage of firearms in residences and vehicles.

Safe Storage in Residences

The proposed ordinance seeks to fill in a notable gap in California law by prescribing specific standards that constitute safe storage in residences. The proposed ordinance requires a person who keeps a firearm in a residence in the City to either safely store the firearm by: (1) placing the firearm in a locked container; or (2) disabling the firearm with a trigger lock. Otherwise, they must have the firearm in their close proximity and control. These requirements do not apply to the storage or use of a firearm outside of the home.

The goal of the proposed ordinance is to decrease unauthorized access to or theft of firearms as well as the impulsive and dangerous use of firearms in suicide attempts or domestic violence incidents. The proposed ordinance does not prohibit authorized firearm owners from accessing or using their firearms, from carrying firearms on their persons, transporting their firearms, or from keeping a firearm in their immediate possession and control.

Currently, California law does not have a broad safe storage requirement that applies equally to all firearm owners. Instead, California law makes it a crime specifically to unsafely store firearms where “a child is likely to gain access to the firearm without the

⁶ David Hemenway, Deborah Azrael, and Matthew Miller, Injury Epidemiology, Whose Guns are Stolen? The Epidemiology of Gun Theft Victims: <https://injepijournal.springeropen.com/articles/10.1186/s40621-017-0109-8>. January 13, 2017.

⁷ Dan Noyes, FRONTLINE, How Criminals Get Guns: <http://www.pbs.org/wgbh/pages/frontline/shows/guns/procon/guns.html>.

⁸ *Ibid.*

⁹ Santa Clara County Public Health, Firearms in Santa Clara County: <https://publichealth.sccgov.org/sites/g/files/exjcpb916/files/firearms-facts-2018.pdf>

permission of the child's parent or legal guardian[.]”¹⁰ With respect to safe storage more broadly, although State law requires all guns sold in California either to be equipped with California Department of Justice-approved safety locks or accompanied by proof that the buyer owns a Department of Justice-approved safe, there is no universal requirement for owners to actually use these locks or safes, nor is there a requirement covering guns purchased out-of-State. The proposed ordinance broadens the protection locally and makes it more fair and equitable by applying the same rules uniformly to all residences in the City.

Safe Storage in Vehicles

California law does not have a universal requirement for safe storage of firearms in vehicles. California law generally requires all persons to securely store handguns when leaving them in unattended vehicles, requiring handguns to be secured either in a locked trunk, in a locked container that is placed out of plain view or permanently affixed to the vehicle's interior, or in a locked utility box that is permanently affixed to the bed of a pickup truck or other vehicle that does not have a trunk. However, there is no such requirement for long guns, such as shotguns and rifles.

The proposed ordinance would apply to all firearms, not just handguns. This ordinance also goes beyond existing State laws, requiring additional elements of security, including a locked container within the trunk of a vehicle or an affixed locked container inside a vehicle. Specifically, the ordinance would prohibit any person from placing, storing, or leaving a firearm in an unattended vehicle *unless* the firearm is stored:

1. In a locked container in the locked trunk of a vehicle;
2. For vehicles with four or more wheels and lacking a trunk, in a locked container that is permanently affixed to the vehicle and underneath a seat, or covered, or otherwise outside the view of the public; or
3. For vehicles with fewer than four wheels and lacking a trunk, in a locked container that is permanently affixed to the vehicle.

The proposed ordinance is intended apply to all vehicles within the City of Mountain View, except for on-duty peace officers or Federal officers or military personnel who are acting within the scope of their authority and discharging their official duties.

¹⁰ California Penal Code Section 25100.

Enforcement

Violations of the proposed ordinance may be prosecuted as a misdemeanor punishable by fine and/or imprisonment. This is the standard penalty for misdemeanor violations of the City Code. The safe storage ordinance would be enforced like any other law that regulates conduct inside the home or vehicle. Absent exigent circumstances, Mountain View Police would not proactively check whether the ordinance is being violated. Accordingly, it would be enforced when the Police are in a home or contacting a vehicle for a lawful reason and notice a violation, if someone reports a violation, or if an incident occurs.

Outreach

Also included in the proposed ordinance is a 60-day delay in implementation to allow for the Mountain View Police Department to conduct outreach and educate residents about the proposed ordinance's requirements. If the proposed ordinance is approved by Council, it will become effective May 7, 2022. In the intervening months, staff will conduct further outreach to inform gun owners of the new requirements. This will be accomplished through the City's biweekly e-newsletter, "City Hall Connection," the MountainView.gov website, various online social media platforms, and a postcard mailer to residents.

FISCAL IMPACT

Any fiscal impact is limited to staff time required for enforcement and prosecution.

ALTERNATIVES

1. Decline to introduce the ordinance.
2. Provide other direction.

PUBLIC NOTICING – Agenda posting.

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MJM-WM/KB/6/CAM
018-02-22-22CR
201635

Approved by:

Kimbra McCarthy
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Attachment: 1. Ordinance