



COUNCIL REPORT

DATE: September 12, 2023
CATEGORY: New Business
DEPT.: City Attorney's Office
TITLE: Firearm Safety Ordinances

RECOMMENDATION

1. Introduce an Ordinance of the City of Mountain View Amending Chapter 18 of the Mountain View City Code to Add Article II "Firearm Dealers" to Impose Local Permit Requirements on Firearm Dealers Operating within the City of Mountain View, to be read in title, further reading waived, and set a second reading for September 26, 2023 (Attachment 1 to the Council report).
2. Introduce an Ordinance of the City of Mountain View Amending Chapter 36, Zoning, of the Mountain View City Code to Add Firearms and Ammunition Retailing as a Prohibited Home Occupation Use, to be read in title, further reading waived, and set a second reading for September 26, 2023 (Attachment 2 to the Council report).

BACKGROUND

Since 2020, the City Council has adopted two ordinances relating to firearm safety: (1) an ordinance prohibiting possession of guns on City property (adopted on April 27, 2021); and (2) an ordinance requiring safe storage of guns in homes and in vehicles (adopted on March 8, 2022).

Council directed the City Attorney's Office to return to Council with additional firearm safety legislation options, which were presented to Council at a Study Session on October 11, 2022. At the Study Session, Council directed staff to return with an ordinance that would require all firearm dealers operating within the City to obtain a permit from the Mountain View Police Department (MVPD), to prohibit firearm dealers from operating within 250 feet from parks, day cares, and schools, and to prohibit firearm dealers from operating from their homes as a home occupation. Existing firearm dealers within prohibited locations would be given a reasonable amount of time before they must comply with the permit requirements or cease operations.

ANALYSIS

In 2023, there has been over 450 mass shootings in the United States, with about 32 mass shootings in California alone, according to the Gun Violence Archive. The proposed ordinances reflect Council's direction and desire to protect public health and safety and regulate firearm dealers within the City.

Firearm dealers are subject to various requirements by the state, including licensing. Under state law, firearm dealers must obtain a California firearms dealer license from the California Department of Justice. As part of that process, a firearm dealer must also obtain an annual permit from the permitting authority of any city, county, or city and county if a local permitting system has been adopted.

1. Proposed Ordinances

The proposed ordinances would create a firearms dealer permitting system by amending the Mountain View City Code to require firearm dealers within the City to obtain a local permit from the Mountain View Police Department (MVPD) and through that permit impose additional regulations. This permit would be required in order for the firearm dealer to obtain a California firearms dealer license as well pursuant to Penal Code sections 26700 and 26705.

Firearm dealers seeking to operate within the City would be required to submit an application to the Chief of Police with information to ensure compliance with the City's requirements, submit fingerprints for investigation purposes, and their businesses will also be required to obtain and maintain liability insurance, with more stringent requirements than required by state law, such as the requirement that the Chief of Police be notified at least 30 days prior to cancellation of the policy.¹ The following locational restrictions will also be imposed on firearm dealers' businesses:

- The business cannot be located within a zoning district where the proposed business activity or use is not permitted by applicable zoning regulations.
- The business cannot be operated from a residence as a home occupation.
- The business cannot be located within 250 feet of day cares, schools, or parks.

Attachment 3 shows commercial parcels available for firearm dealers with the proposed locational restrictions.

¹ Effective July 1, 2023, all firearm dealers are required to carry a liability insurance policy providing at least \$1,000,000 of coverage per incident. Cities are permitted to require more stringent requirements regarding the maintenance of liability insurance. (Penal Code § 26811)

MVPD would process applications, conduct investigations of the applicants, process permit renewals (on an annual basis), and inspect and enforce the permit's requirements and regulations. In addition, permits are subject to suspension and/or revocation for non-compliance with the Code provisions. Permits will not be issued to firearm dealers who cannot comply with all the requirements and regulations as set forth in the proposed ordinances, and accordingly they would not be able to operate within the City.

Existing businesses will have 90 days from the effective date of the ordinances to submit an application with MVPD. Existing firearm dealers operating from a residence will have one year from the effective date to cease operations but will not be required to obtain a permit from MVPD during that one-year period. The one-year period provides firearm dealers who are conducting businesses from their homes with an adequate period of time to recoup the costs of their business, which is largely related to moving their inventory and finding and securing another location from which they can sell firearms.

The regulations are presented in two ordinances to carve out the portion that amends the City's Zoning Code, which went to the Environmental Planning Commission ("EPC") on August 16 for their recommendation. The EPC recommended adoption of the amendment to the City's Zoning Code (6-1 vote), which would effectuate the retailing of firearms and ammunition as a prohibited home occupation use (Attachment 2).

2. Neighboring Cities

During the October 11, 2022 Study Session, Council requested information about the firearm regulations adopted by neighboring cities and expressed an interest in being consistent with those cities to the extent possible. The following table shows which neighboring cities have the proposed regulations:

	Permit Ordinance	Prohibit Home Occupations	Require Liability Insurance	Location Restrictions
Mountain View*	✓	✓	✓	✓
Sunnyvale	✓		✓	
Palo Alto	✓	✓	✓	✓ 250 feet from residential zoning district, schools, day cares
Los Gatos	✓			✓ 250 feet from schools, day cares, govt buildings, places of worship, public parks and trails, & businesses providing activities to minors
San Jose**	✓	✓		
Campbell	✓	✓	✓	✓ Cannot be located in residential zoning district
Morgan Hill	✓	✓	✓	
Santa Clara				
Los Altos				
Cupertino				

* If the proposed ordinances are adopted by City Council.

** The City of San Jose’s Gun Harm Reduction ordinance requires firearm *owners* who live within the city to maintain liability insurance to cover losses or damages resulting from an accidental use of the firearm. The ordinance was challenged and on July 13, 2023, the district court upheld most provisions of the ordinance under the Second Amendment. If passed by the state legislature and signed into law, SB 8 would require firearm owners throughout the state to maintain liability insurance commencing on January 1, 2025.

As demonstrated in the table, if Council adopts the proposed ordinances, the City would be consistent with Palo Alto, and to a lesser extent, with Campbell.

3. Active State Bills

California is known to have the strongest gun safety laws in the country, and the state legislature continues to prioritize this issue. Attachment 4 has a list of active bills before the state legislature related to firearm safety. Due to the timing of this Council report, the list of active bills may

change because the last day for each house of the state legislature to pass bills is September 14. The Governor then has until October 14 to sign bills into laws.

FISCAL IMPACT

Fiscal impacts will be limited to staff time required for preparation, investigation, and processing of applications, enforcement, and prosecution.

ALTERNATIVES

1. Do not introduce the ordinances.
2. Provide other direction.

PUBLIC NOTICING

Agenda posting and a special notice was sent directly to existing firearm dealers in the City.

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Approved by:

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City Manager

- Attachments:
1. Ordinance of the City of Mountain View Amending Chapter 18 of the Mountain View City Code to Add Article II "Firearm Dealers" to Impose Local Permit Requirements on Firearm Dealers Operating within the City of Mountain View
 2. Ordinance of the City of Mountain View Amending Chapter 36, Zoning, of the Mountain View City Code to Add Firearms and Ammunition Retailing as a Prohibited Home Occupation Use
 3. Map
 4. Pending Bills