

ORDINANCE NUMBER O-17255 (NEW SERIES)

ADOPTED ON FEBRUARY 27, 1989

**AN EMERGENCY ORDINANCE PURSUANT TO SECTION 17  
OF THE CHARTER OF THE CITY OF SAN DIEGO BY  
AMENDING CHAPTER V, ARTICLE 3, OF THE SAN  
DIEGO MUNICIPAL CODE BY ADDING SECTION 53.31  
RELATING TO THE POSSESSION OF ASSAULT WEAPONS  
WITHIN THE CITY OF SAN DIEGO.**

WHEREAS, the proliferation and use of assault weapons pose a serious threat to the health, safety, welfare and security of the citizens of The City of San Diego; and

WHEREAS, the primary purpose of assault weapons is antipersonnel and their lawful use within the City of San Diego is restricted by both the Dangerous Weapons' Control Law, California Penal Code section 12000 et seq. and by Municipal Code section 53.10; and

WHEREAS, the function of assault weapons is such that their unlawful use can cause severe injury and loss of life; and

WHEREAS, these weapons are not subject to state regulations that require a waiting period for their purchase; and

WHEREAS, it is necessary to establish regulations to regulate the unlawful use of these weapons; and

WHEREAS, it is not the intent of the City Council to place restrictions on the use of weapons which are primarily designed and intended for hunting, target practice, or other lawful purposes; and NOW, THEREFORE,

BE IT ORDAINED by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 3, of the San Diego Municipal Code be and the same is hereby amended by adding Section 53.31 to read as follows:

**SEC. 53.31 ASSAULT WEAPONS, NUISANCE, TEMPORARY CUSTODY**

(a) The term "assault weapon," as used in this Section, shall include:

1. Any semiautomatic action, center fire rifle or carbine which accepts a detachable magazine with a capacity of twenty (20) rounds or more, with a barrel of more than sixteen (16) inches, including but not limited to the following firearms or their copies: AR 15 semiautomatic assault rifles, Uzi semiautomatic assault rifles or carbines, Ingram Mac-10 semiautomatic assault carbines, Ingram Mac-11 semiautomatic assault carbines, Heckler and Koch 93 semiautomatic assault rifles, Heckler and Koch 91 semiautomatic assault rifles, AK-47 semiautomatic assault rifles, AKM-47 semiautomatic assault rifles, all Avtomat Kalashnikov weapons, M1-A semiautomatic assault rifles, M-14 semiautomatic assault rifles, Thompson semiautomatic carbines and any other semiautomatic carbines manufactured by Auto Ordnance;

2. Any shotgun with a barrel of more than eighteen (18) inches and a folding stock or magazine capacity of more than six (6) rounds;

3. Any weapon which may be readily restored to an operable assault weapon, as defined in paragraphs 1 and 2 above; and

4. Any part, or combination of parts, designed or intended to convert a weapon into an assault weapon, as defined above in paragraphs 1 and 2, or any combination of parts from which an assault weapon may be readily assembled, if those parts are in the possession or under the control of the same person.

(b) As used in this Section, the term "semiautomatic" means a weapon which fires a single projectile for each single pull of the trigger and which employs a magazine.

(c) The term "assault weapon" does not include any of the following:

1. Any of the above generally and specifically described weapons which is a "machine gun" as that term is defined by Section 12200 of the Penal Code of the State of California; any pistol, revolver or other firearm which is capable of being concealed upon one's person, as defined and regulated by the provisions of Sections 12021 and 12025 of the Penal Code of the State of California;

2. Any of the following: weapons which do not use fixed ammunition, weapons which were manufactured prior to 1898, manually operated bolt action weapons, lever action weapons, slide action weapons, single-shot weapons, multiple-barrel weapons, revolving cylinder weapons, semiautomatic weapons which use exclusively Mannlicher-style clips, semiautomatic weapons manufactured prior to 1954, rim-fire weapons that employ a tubular magazine;

3. Any assault weapon which is an antique or relic firearm or other weapon falling within the specifications of paragraphs (5), (7) and (8) of Subsection (b) of Section 12020 of the Penal Code of the State of California;

4. Any short-barreled rifle or shotgun as defined in Subsection (c) of Penal Code Section 12020; or

5. Any assault weapon which has been modified either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon.

(d) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (d) of

Section 830.2, and a member of a California State University Police Department, as defined in subdivision (e) of Section 830.2, during the performance of his or her duties within the City of San Diego may take temporary custody of any assault weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons of the City of San Diego.

(e) The provisions of subsection (d) shall not apply to assault weapons in the possession of any person specifically authorized to possess concealed or loaded firearms within the City limits of San Diego pursuant to the Dangerous Weapons' Control Law, California Penal Code section 12000 et seq.

(f) Upon taking custody of an assault weapon, the officer shall give the owner or person who possessed the assault weapon a receipt. The receipt shall describe the assault weapon and list any identification or serial number on the assault weapon. The receipt shall indicate where the firearm can be recovered and the date after which the owner or possessor can recover the assault weapon. No assault weapon shall be held less than forty-eight (48) hours. If an assault weapon is not retained for use as evidence related to

criminal charges or is not retained because it was illegally possessed, the assault weapon shall be made available to the owner or person who was in lawful possession forty-eight (48) hours after the seizure or as soon thereafter as possible, but no later than seventy-two (72) hours after the seizure.

(g) Any assault weapon which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm and proof of ownership.

(h) Any assault weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, for longer than twelve (12) months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028.

Section 2. Because of the proliferation of incidents wherein assault weapons, as defined in this ordinance, have been used to kill and injure large numbers of people, this ordinance is

urgently needed for the protection of the public peace, health and safety and shall become effective immediately upon its introduction and adoption pursuant to Section 16 of the Charter of the City of San Diego.

APPROVED: John W. Witt, City Attorney

By   
John M. Kaheny  
Chief Deputy City Attorney

JMK:JMB:mrh  
02/21/89  
03/03/89 REV. 1  
Or.Dept:Mayor  
O-89-176  
Form=o.code

Passed and adopted by the Council of The City of San Diego on **FEB 27 1989**,  
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

**MAUREEN O'CONNOR**  
 Mayor of The City of San Diego, California.

**CHARLES G. ABDELNOUR**  
 City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on **FEB 27 1989**, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal)

**CHARLES G. ABDELNOUR**  
 City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-17255** Adopted **FEB 27 1989**