

ORDINANCE NUMBER O- 18158 (NEW SERIES)

ADOPTED ON FEB 06 1995

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, DIVISION 42, OF THE SAN DIEGO MUNICIPAL CODE TO CLARIFY AND EXPAND THE SCOPE OF FIREARM DEALER REGULATIONS

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

Section 1. That Chapter III, Article 3, Division 42, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 33.4201 through 33.4209, and adding Sections 33.4210 and 33.4211, to read as follows:

DIVISION 42

Regulation of Firearm Dealers

SEC. 33.4201 Permit Required

(a) It is unlawful for any person to engage in business as a Firearm Dealer without a Firearm Dealer permit issued by the Chief of Police.

(b) It is unlawful for any person to sell, deliver, or otherwise transfer any firearm in violation of state or federal law or without the permit required by Section 33.4201.

SEC. 33.4202 Definitions

For the purpose of this Division, the following words mean:

"Chief of Police" means the Chief of Police or the Chief's designated representative.

"Firearm" means any device designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of any explosion or other form of combustion. A "Firearm" includes any device defined as a firearm in California Penal Code section 12002.

"Firearm Dealer" means any person who obtains a Federal Firearms Dealers License for the business of:

(a) selling, transferring, or leasing any new or used Firearms at wholesale or retail; or

(b) advertising for sale, transfer, or lease any new or used Firearms at wholesale or retail; or

(c) offering or exposing for sale, transfer, or lease, any new or used Firearms at wholesale or retail.

"Person" has the same meaning as that in San Diego Municipal Code section 11.0210.

SEC. 33.4203 Application for Permit

(a) The Chief of Police shall prescribe the application form for a Firearm Dealer permit.

(b) Any person proposing to engage in business as a Firearm Dealer within the City of San Diego shall secure the applicable federal license and shall have thirty (30) calendar days after receipt of such federal license to apply for a City permit in compliance with the provisions of this Division.

SEC. 33.4204 Issuance or Denial of Permit

The Chief of Police may not issue a permit if the Chief of Police finds any of the following:

(a) The applicant knowingly made false or misleading statements of a material fact or omitted a material fact in the application; or

(b) The operation of the Firearm Dealer business as proposed in the application for the permit will violate any applicable building, fire, health or zoning requirements set forth in this Code; or

(c) The applicant is under twenty one (21) years of age; or

(d) The applicant has had a similar permit or license previously revoked or denied for good cause within one (1) year immediately preceding the date of the filing of the application; or

(e) The applicant has not been licensed as a Firearm Dealer as required by federal law and the State of California; or

(f) The applicant, within five (5) years immediately preceding the date of filing the application, has been convicted in a court of competent jurisdiction of any of the following offenses:

(1) Any offense involving the use of force or violence upon the person of another; or

(2) Any offense of theft, embezzlement, or receiving stolen property; or

(3) Any felony offense involving the sale, manufacture, possession, or use of any controlled substance as defined by the California Health and Safety Code; or

(4) Any offense in another state, which if committed in this state, would have been punishable as one of the offenses specified above and immediately preceding; or,

(g) The applicant is under indictment for, or has been convicted of, any violation of federal, state or local law relating to the manufacture, sale, transfer, lease, registration, use, or possession of any firearm or ammunition; or

(h) The applicant fails to remove the authority of any officer, agent or employee to act on behalf of the applicant in the Firearm Dealer business within five (5) working days after applicant receives written notification by certified mail or personal delivery from the Chief of Police, that:

(1) any officer, employee, or agent of the applicant, is under indictment for, or has been convicted of, any violation of federal, state or local law relating to the manufacture, sale, transfer, lease, registration, use, or possession of any firearm or ammunition; or

(2) any officer, employee, or agent of the applicant, is a person in a prohibited class described in Section 12021 or Section 12021.1 of the California Penal Code or Section 8100 or Section 8103 of the Welfare and Institutions Code; or

(i) The applicant is a person in a prohibited class described in Section 12021 or Section 12021.1 of the

California Penal Code or Section 8100 or Section 8103 of the Welfare and Institutions Code; or

(j) The applicant has failed to provide evidence of a possessory interest, such as the interest of an owner, tenant, lessee or sublessee, in the property where the proposed business will be conducted; or

(k) The applicant has failed to obtain a zoning use certificate required by this Code.

SEC. 33.4205 Permit Renewal

A valid Firearm Dealers permit issued pursuant to the provisions of this Code may be renewed annually only upon the following terms and conditions:

(a) An application for renewal shall be completed and submitted to the Chief of Police of the City of San Diego thirty (30) calendar days prior to the expiration of the existing permit, unless extended to a later date by the Chief of Police; and

(b) If an application for renewal is not filed within the time specified by Section 33.4205(a), the permit shall expire one (1) year after the date of its issuance or last renewal.

SEC. 33.4206 Right of Inspection

Firearm Dealers shall have their places of business open to Police Department inspection during all hours of operations. Firearm Dealers shall maintain all Firearms records and documents, Firearms and storage places in a manner and place accessible for inspection by Police Department personnel.

SEC. 33.4207 Permit Not Transferable

A Firearm Dealer permit may be issued only to a specific person to conduct business as a dealer at a specific location and at gun shows in accordance with California Penal Code section 12071. It is unlawful for any person to transfer a Firearm Dealer permit to another person or from one location to another without prior written approval of the Chief of Police. Any attempted transfer shall be ineffective.

SEC. 33.4208 Permit Restricted to One Location

The Firearm Dealer business may be carried on only in the location designated in the permit. Only one Firearm Dealer permit may be issued per location.

SEC. 33.4209 Display of Permit Required

The Firearm Dealer permit or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can be easily read.

SEC. 33.4210 Business and Security Regulations

(a) All Firearm Dealers and officers, employees or agents of the Firearm Dealers, shall comply with all provisions of California Penal Code section 12071, which include business regulations and the building specifications for Firearm security.

(b) All sellers of Firearms shall protect such Firearms from theft during business hours in the following manner:

(1) All Firearms shall be in locked cabinets, a secure rack, or a storage area so that access to Firearms is controlled by the dealer or an employee, to the exclusion of all others.

(2) The Firearm Dealer, agent, or employee shall be present when a prospective buyer or seller is handling any Firearm.

SEC. 33.4211 Revocation of Permit

In addition to the grounds enumerated in Section 33.0401, the Chief of Police may revoke or suspend a Firearm Dealer's permit for cause if the Chief finds any of the following:

(a) The Firearm Dealer, or any officer, employee or agent of the Firearm Dealer, is not operating in full compliance with all provisions of this Division; or

(b) The Firearm Dealer is convicted of any of the offenses enumerated in Section 33.4204; or

(c) The Firearm Dealer fails to remove the authority of any officer, agent, or employee to act on behalf of the Firearm Dealer within five (5) working days after the Firearm Dealer receives written notification by certified mail or personal delivery from the Chief of Police, that such officer, agent or employee has been convicted of any of the offenses enumerated in Section 33.4204; or

(d) Any of the conditions listed on the permit are violated.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Joseph M. Battaglino
Joseph M. Battaglino
Deputy City Attorney

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