

(O-98-19)  
(REV. 1)

ORDINANCE NUMBER O- 18472 (NEW SERIES)

ADOPTED ON MAR 17 1998

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 AND  
CHAPTER V, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL  
CODE BY ADDING SECTIONS 33.4212, 53.15.2 AND 53.16  
PERTAINING TO FIREARMS AND WEAPONS VIOLENCE  
PREVENTION

WHEREAS, most children who accidentally injure or kill themselves or a friend do so while playing with a loaded firearm found in their home or a friend's home; and

WHEREAS, the number of accidental deaths and injuries attributable to firearms and other weapons is unacceptable and warrants stricter control over the handling and storage of lawful firearms; and

WHEREAS, the City of San Diego wants to take all practical steps to prevent injuries and deaths resulting from the accidental discharge of firearms; and

WHEREAS, trigger locks or other similar devices, when used properly, can prevent the accidental discharge of firearms; and

WHEREAS, the City has an interest in encouraging firearm owners to store their firearms in a safe manner, and out of the reach of children, NOW, THEREFORE,

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

Section 1. Chapter III, Article 3, Division 42 of the San Diego Municipal Code, is hereby amended by adding Section 33.4212 to read as follows:

**SEC. 33.4212 Provision of Trigger Locks**

(a) It is unlawful for any firearm dealer to sell, give, lend or transfer ownership of any

firearm without also providing with the firearm a trigger locking or similar device approved by the Chief of Police. The trigger locking or similar device shall be designed to prevent the unintentional discharge of the firearm. The trigger locking or similar device shall be attached to the firearm prior to the completion of the sale, gift, lending or transfer transaction, and the firearm must leave the premises of the firearms dealer with the trigger locking or similar device attached. If a trigger locking or similar device cannot be attached because the firearm lacks a trigger guard, a lockable bag or box shall be used in lieu of a trigger locking or similar device. Nothing in this section shall prevent the firearms dealer from recovering the cost of the trigger locking or similar device by charging a price for the lock, either separately or as part of the price of the firearm.

(b) It is unlawful for any firearm dealer sell, give, lend or transfer ownership of any firearm, without providing with the firearm printed material, approved by the Chief of Police, that advises the user of safe firearm storage practices.

(c) In connection with any sale, gift, loan or transfer of a firearm, the firearm dealer shall obtain from the person receiving the firearm a signed acknowledgment that a trigger locking or similar device required by section 33.4212(a) of this Municipal Code, and the printed material required by section 33.4212(b), has been provided with the firearm. The acknowledgment shall be in a form approved by the Chief of Police. The firearm dealer shall retain signed acknowledgments of receipt in the same manner and to the same extent as required by State law for other firearm transaction records.

(d) A firearm dealer who has fully complied with the provisions of this section relating to trigger locking or similar devices shall not be presumed to have made any representation to the transferee regarding the safety or appropriateness of the use of the trigger locking or similar device, nor shall the firearm dealer be liable in any civil action brought against the firearm dealer, to the

extent such liability would be based solely upon the act of furnishing the trigger locking or similar device to a person in compliance with this section.

(e) The requirements of section 33.4212 shall be in force and effect, and shall apply to all firearms dealers now or hereafter licensed, ninety days after the date on which the Chief of Police sends written notice to currently-licensed firearms dealers of the approved trigger locking or similar devices, printed safety material and form of acknowledgement.

(f) The provisions of this section shall not apply to temporary lending transaction in which the firearm does not leave the premises of the firearms dealer.

(g) The requirements in sections 33.4212(a), (b) and (c) shall not apply to firearms that are curios or relics, as defined by federal law, Title 27 Code of Federal Regulations section 178.

(h) The requirements in sections 33.4212(a), (b) and (c) shall not apply to firearms dealers when they are involved in private party transfers conducted pursuant to California Penal Code section 12082.

Section 2. Chapter V, Article 3, of the San Diego Municipal Code is hereby amended by adding sections 53.15.2 and 53.16 to read as follows:

**SEC. 53.15.2 Possession of Air Guns, Pointed Missiles, Etc., by Minors**

(a) Except as provided in this section, it is unlawful for any person under the age of eighteen to have in his or her possession, upon any public street or sidewalk or in any public gathering place within the corporate limits of the City any air gun, sharp pointed missile, dart or arrow, described in Municipal Code section 53.15.

(b) This section shall not apply to any minor engaged in supervised or otherwise lawful activity involving such weapons, or who is going to or returning from a place where the minor was engaged in such supervised or otherwise lawful activity.

**SEC. 53.16 Penalties for Firearms and Other Weapons Offenses**

(a) A person is guilty of a separate punishable offense for each firing or discharge of a weapon described in Municipal Code sections 53.10 or 53.15.

(b) Minors arrested for a violation of Municipal Code sections 53.10, 53.15, 53.15.1 or 53.15.2 shall be subject to the provisions of section 602 of the California Welfare and Institutions Code.

(c) Any parent or legal guardian, or person over the age of eighteen, is also guilty of a misdemeanor, if:

(1) he or she possesses on any premises or within a vehicle under his or her custody or control, any of the firearms identified in Municipal Code sections 53.10, and

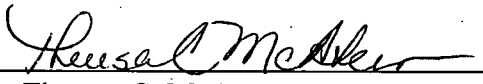
(2) he or she knows or reasonably should know that a minor is likely to gain access to such firearm, and

(3) a minor obtains and fires or discharges such firearm in violation of sections 53.10.

(d) A violation of Municipal Code sections 53.10, 53.15 or 53.15.1 occurring within 1,500 feet of a public or private day care center, school or school grounds, is a misdemeanor, and the penalty for conviction of the same is punishable by a fine of not more than \$1,000, or by imprisonment in the County jail for a period of not more than one year, or both. A violation of sections 53.10, 53.15 or 53.15.1 may also be prosecuted in accordance with Chapter 1 of the Municipal Code.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
Theresa C. McAteer  
Deputy City Attorney

TCM:rc  
3/16/98  
Or.Dept:Mayor  
O-98-19  
(REV. 1)