

ORDINANCE NUMBER O- 21826 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 0 2 2024

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 3, DIVISION 00 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 53.32, RELATING TO CONTRACTS WITH VENDORS OF FIREARMS OR AMMUNITION.

WHEREAS, according to Brady, a gun violence prevention group, in 2020, California experienced: 1) 1,552 gun-caused suicides, 58 of which were of children and teens; and 2) 1,732 gun-caused homicides, 221 of which were of children and teens; and

WHEREAS, according to the Kaiser Family Foundation, the United States saw a 50 percent increase in the number of children killed by firearms in a homicide from 2019 to 2021 and a 21 percent increase in the number of child suicides involving firearms from 2019 to 2021; and

WHEREAS, according to reports by the Bureau of Alcohol, Firearms, Tobacco, and Explosives (ATF), over 45,000 guns were recovered by law enforcement in California in 2020 and more than 15,000 of those crime guns were purchased from California firearm dealers; and

WHEREAS, the City of San Diego (City) continues to suffer from gun violence in our communities; and

WHEREAS, the San Diego Police Department (SDPD) recovered 1,211 crime guns in 2022 and recovered 1,360 crime guns in 2021; and

WHEREAS, a small number of firearm dealers are responsible for a large percentage of sales of guns that are used in crimes. The ATF estimated that 1.2 percent of firearm dealers are responsible for over 57 percent of guns traced to crimes; and

WHEREAS, according to The Center for American Progress, between 2012 and 2019, 1,937 guns were reported stolen from federally licensed firearm dealers in California, the seventh highest rate of theft for any state during that period; and

WHEREAS, firearm and ammunition dealers and manufacturers can help law enforcement prevent gun crimes and gun violence by adhering to public safety principles regarding firearms and complying with all applicable federal, state, and local laws and regulations; and

WHEREAS, many firearm dealers follow safe dealing practices and comply with applicable laws. A report from the ATF shows that 56 percent of its firearm compliance inspections throughout the United States during fiscal year 2020 resulted in "No Violations"; and

WHEREAS, research from Brady has shown that a small number of firearm dealers are disproportionately the source of trafficked firearms and firearms recovered in crimes. It has also shown that firearm dealers with disproportionate numbers of crime gun traces are more likely to be found in non-compliance with federal firearms laws, including those intended to reduce gun trafficking and crime and to assist law enforcement in solving gun violence crimes; and

WHEREAS, according to Brady's research, improved and responsible firearm procurement practices can save lives of law enforcement officers and citizens alike; and

WHEREAS, since January 2019, the City has spent approximately \$675,000 on the procurement of firearms and approximately \$3.4 million on ammunition to safely equip SDPD; and

WHEREAS, the City can use its purchasing power to influence firearm dealers who desire to do business with the City to abide by the laws and act responsibly, thus making our communities safer; and

WHEREAS, it is essential that firearm and ammunition vendors that do business with the City are intensely vetted to ensure they are law-abiding and that they employ best practices shown to reduce the likelihood that their guns will be trafficked into communities such as San Diego and recovered in crime; and

WHEREAS, the City must ensure that it purchases firearms and ammunition only from dealers or manufacturers that adhere to public safety principles regarding firearms; are in compliance with all applicable federal, state, and local laws and regulations; and have valid federal, state and local firearms licenses, permits, and certifications required by their jurisdictions in order to deal in firearms, including any applicable State Board of Equalization seller's permit(s), and a Certificate of Eligibility under California Penal Code section 26710; and

WHEREAS, this ordinance will be referred to as the Ira Sharp Firearm Dealer Accountability Act; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That Chapter 5, Article 3, Division 00 of the San Diego Municipal Code is amended by adding section 53.32, to read as follows:

§ 53.32 Procurement of Firearms and Ammunition

- (a) Purpose and Intent. It is the purpose and intent of this section that the City of San Diego develop procurement practices for firearm and ammunition purchases to reduce gun violence and protect public health and safety.

(b) **Applicability.** This section applies to any contract solicited, entered into, awarded, amended, renewed, or extended, after the effective date of this section. *Contractors* shall comply with this section during the solicitation process and term of the contract.

(c) **Definitions –** For purposes of this section, defined terms appear in italics. The following definitions apply in this section.

Contractor has the same meaning as in San Diego Municipal Code section 22.0802.

Firearm trafficker is any person who violates, or is convicted of violating, 18 U.S.C. § 933.

Non-serialized firearm has the same meaning as in San Diego Municipal Code section 53.18(b).

Non serialized unfinished firearm frame has the same meaning as in San Diego Municipal Code section 53.18(b).

Non-serialized unfinished firearm receiver has the same meaning as in San Diego Municipal Code section 53.18(b).

Straw purchaser is any person who knowingly purchases or conspires to purchase firearms for purposes prohibited under 18 U.S.C. § 932(b).

(d) **General Requirements**

(1) At all times during the solicitation process and term of the contract, and any extensions thereto, *contractors* shall be in compliance with all applicable state and federal laws, and, if required by state or federal law, shall have a valid federal firearms license, a valid State Board of Equalization seller's permit, and a Certificate of

Eligibility under California Penal Code section 26710, as may be amended.

- (2) *Contractors* shall comply with all of the following requirements:
 - (A) provide proof of all required valid licenses, permits, and certificates;
 - (B) provide materials documenting the number of the Bureau of Alcohol, Tobacco, Firearms, and Explosives trace requests received by the *contractor* for each year within the past five years, and the time between the sale of the firearm subject to the trace request and the crime that generated the trace request when known;
 - (C) provide materials documenting any thefts from the *contractor's* premises of the two most recent inspection reports of any firearm inspection conducted by federal, state, or local agencies;
 - (D) provide a true copy of the two most recent inspection reports of any firearm inspection conducted by federal, state, or local agencies; and
 - (E) disclose any violations from any type of inspection conducted by federal, state, or local agencies within the last five years, and provide any materials documenting *contractor's* corrective actions in response to a finding of noncompliance or violation of federal, state, or local firearms laws or regulations.

- (3) *Contractors* must explain in writing any practices or policies it has adopted, or will adopt, including its implementation process to:
 - (A) prevent, detect, and screen for the transfer of firearms to *straw purchasers* or *firearm traffickers*;
 - (B) prevent sales to individuals prohibited by federal, state, or local law, or court order;
 - (C) protect against the theft of firearms and ammunition;
 - (D) train *contractor* employees to ensure compliance with all applicable federal, state, and local laws and regulations;
 - (E) assist law enforcement agencies in the investigation and prevention of criminal access to firearms; and
 - (F) operate a digital video surveillance system as prescribed in California Penal section 26806, as may be amended, or a similar system, if applicable state or local law requires such a system, for *contractors* outside of California.
- (4) *Contractors* that sell gun build kits, including the *non-serialized unfinished firearm frames* or *receivers* and *non-serialized firearms*, must show proof they are in compliance with San Diego Municipal Code section 53.18, and any federal, state, or local laws related to firearm precursor parts.
- (e) The Purchasing Agent shall develop a process to implement this section, including a process to assess a *contractor*'s compliance with the requirements of this section.

(f) The City Manager may, in their discretion waive the requirements of this section under the following circumstances:

- (1) the federal, state, or local violation is minor, administrative, or similarly de minimis; or
- (2) to make an emergency purchase.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By



Jill S. Cristich
Deputy City Attorney

JSC:hm:jdf
04/18/2024
Or.Dept: PSE
Doc. No. 3636830

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 25 2024.

DIANA J.S. FUENTES
City Clerk

By Kristine Medina
Deputy City Clerk

Approved: 7/1/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is July 2, 2024, which represents the day this ordinance was returned to the Office of City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

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§ 53.32

Procurement of Firearms and Ammunition

- (a) Purpose and Intent. It is the purpose and intent of this section that the City of San Diego develop procurement practices for firearm and ammunition purchases to reduce gun violence and protect public health and safety.
- (b) Applicability. This section applies to any contract solicited, entered into, awarded, amended, renewed, or extended, after the effective date of this section. Contractors shall comply with this section during the solicitation process and term of the contract.
- (c) Definitions – For purposes of this section, defined terms appear in italics. The following definitions apply in this section.
Contractor has the same meaning as in San Diego Municipal Code section 22.0802.
Firearm trafficker is any person who violates, or is convicted of violating, 18 U.S.C. § 933.
Non-serialized firearm has the same meaning as in San Diego Municipal Code section 53.18(b).

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Non-serialized unfinished firearm receiver has the same meaning as in San Diego Municipal Code section 53.18(b).

Straw purchaser is any person who knowingly purchases or conspires to purchase firearms for purposes prohibited under 18 U.S.C. § 932(b).

(d) General Requirements

(1) At all times during the solicitation process and term of the contract, and any extensions thereto, contractors shall be in compliance with all applicable state and federal laws, and, if required by state or federal law, shall have a valid federal firearms license, a valid State Board of Equalization seller's permit, and a Certificate of Eligibility under California Penal Code section 26710, as may be amended.

(2) Contractors shall comply with all of the following requirements:

(A) provide proof of all required valid licenses, permits, and certificates;

(B) provide materials documenting the number of the Bureau of Alcohol, Tobacco, Firearms, and Explosives trace requests received by the contractor for each year within the past five years, and the time between the sale of the firearm subject to the trace request and the crime that generated the trace request when known;

- (C) provide materials documenting any thefts from the contractor's premises of the two most recent inspection reports of any firearm inspection conducted by federal, state, or local agencies;
 - (D) provide a true copy of the two most recent inspection reports of any firearm inspection conducted by federal, state, or local agencies; and
 - (E) disclose any violations from any type of inspection conducted by federal, state, or local agencies within the last five years and provide any materials documenting contractor's corrective actions in response to a finding of noncompliance or violation of federal, state, or local firearms laws or regulations.
- (3) Contractors must explain in writing any practices or policies it has adopted, or will adopt, including its implementation process, to:
- (A) prevent, detect, and screen for the transfer of firearms to straw purchasers or firearm traffickers;
 - (B) prevent sales to individuals prohibited by federal, state, or local law, or court order;
 - (C) protect against the theft of firearms and ammunition;
 - (D) train contractor employees to ensure compliance with all applicable federal, state, and local laws and regulations;

- (E) assist law enforcement agencies in the investigation and prevention of criminal access to firearms; and
- (F) operate a digital video surveillance system as prescribed in California Penal Code section 26806, as may be amended, or a similar system, if applicable state or local law requires such a system for contractors outside of California.
- (4) Contractors that sell gun build kits, including the non-serialized unfinished firearm frames or receivers and non-serialized firearms, must show proof they are in compliance with San Diego Municipal Code section 53.18, and any federal, state, or local laws related to firearm precursor parts.
- (e) The Purchasing Agent shall develop a process to implement this section, including a process to assess a contractor's compliance with the requirements of this section.
- (f) The City Manager may, in their discretion, waive the requirements of this section under the following circumstances:

 - (1) the federal, state, or local violation is minor, administrative, or similarly de minimis; or
 - (2) to make an emergency purchase.

JSC:hm:jdf
04/18/2024
Or.Dept: PSE
Doc. No. 3636859

Passed by the Council of The City of San Diego on JUN 25 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 02 2024

AUTHENTICATED BY: TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

(Seal)

By Kristelle Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUN 04 2024, and on JUL 02 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

(Seal)

By Kristelle Medina, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21826