

#50
7/30/19

ORDINANCE NUMBER O- 21099 (NEW SERIES)

DATE OF FINAL PASSAGE AUG 13 2019

AN ORDINANCE AMENDING CHAPTER FIVE, ARTICLE THREE OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW SECTION 53.17, RELATING TO SAFE STORAGE OF FIREARMS.

WHEREAS, having a firearm in the home that is easily accessible to children, those struggling with mental health issues, and criminals, increases firearm related injuries, deaths, and crimes, creating significant local and national public health impacts; and

WHEREAS, research indicates that these impacts are reduced when firearms are locked up or disabled with a trigger lock (secured); and

WHEREAS, firearm-related deaths in the United States are the second leading cause of injury-related deaths in children between the ages of 1 and 17, surpassed only by motor vehicle injury deaths; and

WHEREAS, it is estimated that 4.6 million children in the United States live in a home with unsecured firearms; and

WHEREAS, studies show that unsecured firearms are frequently accessible to and accessed by young children, even when their parents believe their firearms are not accessible; and

WHEREAS, 73% of children ages 9 and under reported knowing the location of their parent's firearms, and 36% of those children admitted that they had handled the firearms, including children whose parents had reported their children did not know the location of their firearms; and

WHEREAS, evidence shows that the presence of a firearm in a home with children substantially increases the risk of suicide and accidental shootings, but that these risks are lower in homes where firearms are secured; and

WHEREAS, firearms were the leading cause of suicides in San Diego County from 1988 through 2016, overtaking intentional overdose/poisoning, hanging/asphyxia, jumping, and other causes; and

WHEREAS, between 2007 and 2016, San Diego County's suicide rate among those aged 18 years or younger was higher than the California state rate; and

WHEREAS, the San Diego County Suicide Prevention Council found that San Diego County's suicide rate between 2016 and 2017 increased 5% from 13.1 to 13.8 per population of 100,000; and

WHEREAS, suicide attempts often are impulsive acts, with one study finding that 24% of nearly lethal suicide attempts by individuals 13 to 34 years of age occurred within five minutes of their decision to attempt suicide; and

WHEREAS, secured firearms impede the opportunity for impulsive suicide attempts, giving suicidal individuals time to contact family, friends, and health-care professionals, and giving others time to react; and

WHEREAS, data between 2004 and 2014 from the Centers for Disease Control shows that among minors between the ages of 10 and 17, firearms were used in just 9% of youth suicides in Massachusetts, a state that has child firearm access prevention laws, compared to 39% of youth suicides nationally, and that the overall suicide death rate among youth in Massachusetts is 35% below the national average; and

WHEREAS, an April 2019 study of pediatric gunshot wounds identified children ages 0-15 years who were admitted to a Houston trauma center from 2001 to 2016 and concluded that many of the gun shot injuries could have been prevented with safe firearm storage, increased community education efforts, and other safety measures; and

WHEREAS, the RAND Corporation analyzed scientific literature on firearm laws and concluded that child firearm access prevention laws reduce firearm self-injuries (including suicides) and unintentional firearm injuries and deaths among children; and

WHEREAS, in 2012, the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), reported that lost and stolen firearms pose a substantial threat to public safety and to law enforcement; and

WHEREAS, in 2017, ATF reported 876 firearms suspected to be have been used in a crime were recovered in San Diego; and

WHEREAS, requiring the safe storage of firearms will reduce the number of firearms stolen during household burglaries or other property crimes, as about 93% of firearm thefts between 2005 and 2010 occurred during property crimes; and

WHEREAS, in 83% of burglaries and 85% of other property crimes that involved a stolen firearm, none of the stolen firearms had been recovered; and

WHEREAS, lost and stolen firearms are used to commit violent crimes, are often bought and sold in an unregulated secondary market where law enforcement is unable to trace transactions, and are transferred to others who commit crimes or are prohibited by law from possessing a firearm; and

WHEREAS, recent data shows that in San Diego County one in five robberies involved a firearm, and a firearm was used in 55% of homicides; and

WHEREAS, according to San Diego Police Department data, in 2018, firearms were used in 16 homicides, 222 robberies, 414 assaults, and in 43 suicides\attempted suicides, and 1189 firearms were stolen in the City of San Diego between 2015 and 2018; and

WHEREAS, states that require firearms to be secured have a firearm theft rate below the national average; and

WHEREAS, the National Rifle Association (NRA) safety rules instruct gun owners to store guns so they are not accessible to unauthorized persons; and

WHEREAS, the California Attorney General advocates for secure storage of firearms using safety devices, such as a trigger lock or cable lock, or locked containers, such as a lock box or a gun safe; and

WHEREAS, the International Association of Chiefs of Police advocates for responsible firearms owners to secure their firearms from theft and from misuse by using safes, trigger locks, and monitored alarm systems; and

WHEREAS, this Ordinance requires firearms to be secured with trigger locks, in a locked container, on the person, or in the person's immediate control, and does not substantially burden a person's right or ability to use firearms for self-defense in the home; and

WHEREAS, this Ordinance applies only to firearms that are not being carried on the person or in the person's immediate control; and

WHEREAS, under this Ordinance, a person may carry loaded and unlocked firearms in the home at any time, and loaded firearms may be securely stored; and

WHEREAS, the Legislature of the State of California has not, expressly or by implication, preempted the regulation of safe residential firearm storage; and

WHEREAS, the Council of the City of San Diego finds that this Ordinance addresses the risks posed by unsecured firearms in the home and will help prevent accidental shootings, teen suicides, and residential firearm thefts; and

WHEREAS, the Council of the City of San Diego finds and declares that this Ordinance will preserve the peace and protect the public health, safety, and general welfare of the residents of the City of San Diego by reducing firearms-related injuries and crime; and

WHEREAS, the Council of the City of San Diego further finds it is within its police power to implement and enforce the provisions of this Ordinance; NOW, THEREFORE,

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

Section 1. That Chapter 5, Article 3 of the San Diego Municipal Code is amended by adding new section 53.17, to read as follows:

§53.17 Residential Safe Storage of Firearms

- (a) Purpose and Intent. It is the purpose and intent of this section that the storage of *firearms* in *residences* within the City of San Diego be regulated for the protection and health of the public and to prevent *firearm* access by a *person* who is not the *authorized user* of a *firearm*.
- (b) Definitions. For the purposes of this section, defined terms appear in italics. The following definitions apply in this section:
 - (1) *Accessory structure* has the same meaning as in San Diego Municipal Code section 113.0103.
 - (2) *Authorized user* means a *person* who is not prohibited from owning or possessing a *firearm*.

- (3) *Firearm* has the same meaning as in San Diego Municipal Code section 53.10.
 - (4) *Locked container* has the same meaning as in California Penal Code section 16850.
 - (5) *Mobilehome* has the same meaning as in San Diego Municipal Code section 113.0103.
 - (6) *Person* has the same meaning as in San Diego Municipal Code section 11.0210.
 - (7) *Residence* means any *structure* intended or used for human habitation including, without limitation, houses, condominiums, apartments, and *mobilehomes*.
 - (8) *Structure* has the same meaning as in San Diego Municipal Code section 113.0103.
 - (9) *Trigger lock* means a *firearm* safety device approved by the California Department of Justice Bureau of Firearms in accordance with California Penal Code section 23635.
- (c) Prohibition. It is unlawful for any *person* to keep a *firearm* within any *residence*, including its *accessory structures*, unless the *firearm* is stored in a *locked container* or disabled with a *trigger lock*.
- (d) Exceptions. Subsection (c) shall not apply in the following circumstances:
- (1) the *firearm* is carried on the body of a *person* who is an *authorized user* of the *firearm*, or

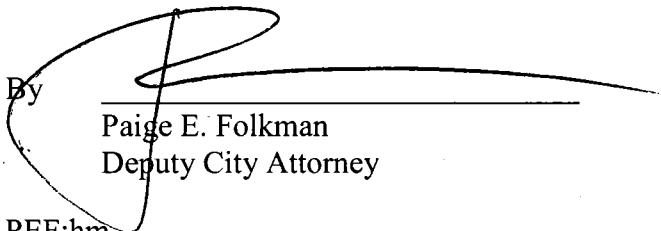
(2) the *firearm* is in the immediate control of the *authorized user* so that the *person* can readily retrieve and use the *firearm* as if carried on the *person's* body.

(e) Reporting Lost or Stolen *Firearms*. In order to encourage reports to law enforcement agencies of lost or stolen *firearms*, a *person* who files a report with a law enforcement agency notifying the agency that a *firearm* has been lost or stolen shall not be subject to prosecution for violation of this section for the *firearm* that is reported lost or stolen.

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 

Paige E. Folkman
Deputy City Attorney

PEF:hm
June 7, 2019
Or.Dept: City Attorney
Doc. No.: 2000761_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 30 2019.

ELIZABETH S. MALAND
City Clerk

By *Connie Patterson*
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(Note: This ordinance was returned unsigned by the Mayor's Office to the Office of the City Clerk on August 13, 2019. Pursuant to the San Diego Charter Section 295(a)(2), the Mayor has 10 business days from the date the ordinance was transmitted to sign or veto the ordinance, said deadline being close of business on August 13, 2019. Therefore the date of expiration of that time shall be deemed the date of its final passage.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER FIVE, ARTICLE THREE OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW SECTION 53.17, RELATING TO SAFE STORAGE OF FIREARMS.

§53.17 Residential Safe Storage of Firearms

(a) Purpose and Intent. It is the purpose and intent of this section that the storage of firearms in residences within the City of San Diego be regulated for the protection and health of the public and to prevent firearm access by a person who is not the authorized user of a firearm.

(b) Definitions. For the purposes of this section, defined terms appear in italics. The following definitions apply in this section:

(1) Accessory structure has the same meaning as in San Diego Municipal Code section 113.0103.

(2) Authorized user means a person who is not prohibited from owning or possessing a firearm.

(3) Firearm has the same meaning as in San Diego Municipal Code section 53.10.

(4) Locked container has the same meaning as in California Penal Code section 16850.

- (5) Mobilehome has the same meaning as in San Diego Municipal Code section 113.0103.
- (6) Person has the same meaning as in San Diego Municipal Code section 11.0210.
- (7) Residence means any structure intended or used for human habitation including, without limitation, houses, condominiums, apartments, and mobilehomes.
- (8) Structure has the same meaning as in San Diego Municipal Code section 113.0103.
- (9) Trigger lock means a firearm safety device approved by the California Department of Justice Bureau of Firearms in accordance with California Penal Code section 23635.
- (c) Prohibition. It is unlawful for any person to keep a firearm within any residence, including its accessory structures, unless the firearm is stored in a locked container or disabled with a trigger lock.
- (d) Exceptions. Subsection (c) shall not apply in the following circumstances:
- (1) the firearm is carried on the body of a person who is an authorized user of the firearm, or
- (2) the firearm is in the immediate control of the authorized user so that the person can readily retrieve and use the firearm as if carried on the person's body.
- (e) Reporting Lost or Stolen Firearms. In order to encourage reports to law enforcement agencies of lost or stolen firearms, a person who files a

report with a law enforcement agency notifying the agency that a *firearm*
has been lost or stolen shall not be subject to prosecution for violation of
this section for the *firearm* that is reported lost or stolen.

PEF:hm
June 7, 2019
Or.Dept: City Attorney
Doc. No.: 1908354

Passed by the Council of The City of San Diego on JUL 30 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 13 2019

AUTHENTICATED BY: KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, 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 JUL 15 2019, and on AUG 13 2019.

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.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21099