

## **MODEL ORDINANCE REGULATING FIREARMS DEALERS**

**[Prohibits Residential Dealers, Requires Secure Premises, Liability Insurance,  
Employee Background Checks And The Sale Of Trigger Locks.**

*(Based on ordinances currently in effect in other jurisdictions, including Lafayette and  
Contra Costa County.)*

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### **Article 1. Sale of Firearms**

**Definition of firearm.**

**"Firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion.**

### **Definition of firearms dealer**

"Firearms dealer" means any person licensed to sell, lease or transfer firearms pursuant to Penal Code Section 12071(a)(1).

### **Police permit required.**

- (a) It is unlawful for any firearms dealer to sell, lease or transfer firearms without a police permit.
- (b) The requirement for a police permit is in addition to the requirement for a land use permit, as provided under Article 2. No firearms dealer may sell, lease or transfer firearms without both a land use permit from the planning commission or city council on appeal and a police permit.

### **Application.**

- (a) An applicant for a permit or renewal of a permit under this chapter shall file with the chief of police an application in writing, signed under penalty of perjury, on a form prescribed by the city. The applicant shall provide all relevant information requested to demonstrate compliance with this chapter including:
  - (1) The name, age and address of the applicant;
  - (2) The address of the proposed location for which the permit is required, together with the business name, if any;
  - (3) Proof of a possessory interest in the property at which the proposed business will be conducted, in the form of ownership, lease, license or other entitlement to operate at such location and the written consent of the owner of record of the real property;
  - (4) A floor plan of the proposed business which illustrates the applicant's compliance with security provisions;
  - (5) Proof of the issuance of a land use permit at the proposed location;
  - (6) Proof of compliance with all federal and state licensing laws;
  - (7) Information relating to licenses or permits relating to other weapons sought by the applicant from other jurisdictions, including, but not limited to, date of application and whether each application resulted in issuance of a license;
  - (8) Information relating to every revocation of a license or permit relating to firearms, including, but not limited to, date and circumstances of the revocation;
  - (9) Applicant's agreement to indemnify, defend and hold harmless the city, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind, including attorney fees, arising in any manner out of the applicant's negligence or intentional or willful misconduct;
  - (10) Certification of satisfaction of insurance requirements;
  - (11) All convictions of the applicant for any of the offenses listed.

- (b) The application shall be accompanied by a nonrefundable fee for administering this chapter established by city council resolution.

**Investigation by chief of police.**

The police chief shall conduct an appropriate investigation of the applicant to determine for the protection of the public safety whether the permit may be issued. The police chief may require an applicant, or any officer, agent or employee thereof, to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, a complete personal history set forth on a questionnaire provided by the police chief, and any other additional information which the police chief considers necessary to complete the investigation.

**Conditions of approval.**

In addition to other requirements and conditions of this chapter, a police permit is subject to the following conditions, the breach of any of which is sufficient cause for revocation of the permit by the chief of police:

- (1) The business shall be carried on only in the building located at the street address shown on the permit. This requirement, however, does not prohibit the permittee from participating in a gun show or event which is authorized by federal, state and local law upon compliance with that law;
- (2) The police permit, or a certified copy of it, shall be displayed on the premises and at gun shows where it can be easily seen;
- (3) The applicant shall not permit any person under 18 years of age to enter or remain within the premises without being accompanied by the parent or other adult legally responsible for the minor child where the firearm sales activity is the primary business performed at the site;
- (4) The permittee shall not deliver a firearm to a purchaser earlier than is allowed by applicable state and federal law;
- (5) The permittee shall not deliver a firearm to another purchaser, lessee or other transferee unless the firearm is unloaded and securely wrapped or unloaded in a locked container;
- (6) The permittee shall not deliver a firearm to a purchaser, lessee or other transferee under the age of 18 years, or a firearm capable of being concealed upon the person to another person under the age of 21 years. Clear evidence of the identity and age of the purchaser shall be required before delivery of a firearm to a purchaser, lessee or other transferee. Evidence of identity may include, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employee identification card containing the bearer's signature and photograph, or similar documentation which provides the permittee or seller reasonable assurance of the identity and age of the purchaser;

(7) The permittee shall not sell, lease or otherwise transfer a firearm to a person whom the permittee or seller has reason to believe is within any of the classes prohibited by Penal Code Sections 12021 or 12021.1, or Welfare and Institutions Code Sections 8100 or 8103.

(8) No firearm or imitation of one or placard advertising its sale or other transfer shall be displayed in any part of the premises where it can readily be seen from the outside;

(9) The permittee shall not sell, lease or otherwise transfer a firearm without also selling or otherwise providing with each such firearm a trigger lock or similar device that is designed to prevent the unintentional discharge of the firearm;

(10) The permittee shall properly and promptly process firearm transactions as required by Penal Code Section 12082;

(11) The permittee shall keep a register of sales as required by Penal Code Sections 12073 and 12077;

(12) The permittee shall post conspicuously within the licensed premises all charges and fees required by Penal Code Section 12071(b)(11) and the following warning in block letters not less than one inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE  
A CHILD OBTAINS AND IMPROPERLY USES IT,  
YOU MAY BE FINED OR SENT TO PRISON."

(13) No firearm capable of being concealed on the person shall be delivered to a purchaser or transferee, unless that person presents to the permittee or seller a current basic firearm safety certificate, unless otherwise exempted by state law;

(14) The permittee shall offer to provide to the purchaser or transferee of a firearm a copy of the pamphlet described in Penal Code Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm;

(15) The permittee shall report the loss or theft of a firearm that is merchandise of the permittee, a firearm that the permittee takes possession of pursuant to Penal Code Section 12082, or a firearm kept at the permittee's place of business within 48 hours of discovery to the police department.

**Requirement of secured facility.**

(a) In addition to the conditions of approval stated, the business location as shown on the police permit shall be a secured facility meeting all of the following specifications:

(1) Every perimeter doorway shall include one of the following:

(A) A windowless steel security door equipped with both a dead bolt doorknob lock, or

- (B) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door;
- (2) Every perimeter doorway shall also be provided with an exterior metal grate that is padlocked and affixed to the permittee's premises independent of the door and the door frame;
- (3) Every window shall be covered with steel bars;
- (4) Heating, ventilating, air-conditioning and service openings must be secured with steel bars, metal grading and an alarm system;
- (5) Any metal grate may not have a space larger than six inches wide measured in any direction;
- (6) Each metal screen may not have a space larger than three inches wide measured in any direction;
- (7) All steel bars shall be no further than six inches apart.
- (b) Upon written request by the permittee, the police chief may approve alternative security measures which he or she considers will provide equivalent or superior security to the premises as the measures required under subsection (a) of this section;
- (c) Every firearm that is kept in the permitted place of business shall be stored using one of the following methods:
- (1) The firearm shall be secured with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises;
- (2) The firearm shall be stored in a locked fireproof safe or vault in the permittee's business premises; or
- (3) All firearms shall be stored on the premises out of the reach of customers in secure, locked facilities approved by the chief of police by which access to firearms is controlled by the permittee or seller to the exclusion of all others.

**Liability insurance.**

- (a) No police permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the city and executed by an insurance company approved by the city, whereby the applicant is insured against liability for damage to property and for injury to or death of any person as a result of the sale, lease or transfer or offering for sale, lease or transfer of a firearm. The minimum liability

- limits shall not be less than \$1,000,000 for each incident of damage to property or incident of injury or death to a person.
- (b) The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until notice in writing has been given to the city manager at least 30 days prior to the time the cancellation becomes effective.
  - (c) Upon expiration of a policy of insurance and if no additional insurance is obtained, the permit is considered canceled without further notice.

#### **Issuance of police permit--Duration.**

- (a) The police department may grant a police permit to the applicant if it finds that the applicant complies with all applicable federal, state and local laws including, but not limited to, the state Penal Code, city building code, fire code and zoning and planning codes.
- (b) A police permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods upon the permittee's submission of an application for renewal, accompanied by a nonrefundable renewal fee established by city council resolution. The renewal application and the renewal fee must be received by the police department no later than 45 days before the expiration of the current permit.
- (c) A decision regarding issuance or renewal may be appealed in the manner provided.

#### **Grounds for permit denial.**

The police chief shall deny the issuance or renewal of a police permit when one or more of the following conditions exist:

- (1) The applicant, or any officer, employee or agent thereof who will have access and control of firearms is under 21 years of age;
- (2) The applicant is not licensed as required by federal and state law;
- (3) The applicant or any officer, employee or agent thereof who will have access to and control of firearms has had a firearm permit or license previously revoked or denied for good cause within the immediately preceding (5) five years;
- (4) The applicant or any officer, employee or agent thereof who will have access to and control over firearms has made a false or misleading statement of a material fact or omission of a material fact in the application for a police permit. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of (5) five years;
- (5) The applicant or any officer, employee or agent thereof who will have access to and control over firearms has been convicted of:

- (A) An offense which disqualifies that person from owning or possessing a firearm under federal, state and local law, including, but not limited to, the offenses listed in Penal Code Section 12021,
  - (B) An offense relating to the manufacture, sale, possession, use or registration of a firearm or dangerous or deadly weapon,
  - (C) An offense involving the use of force or violence upon the person of another,
  - (D) An offense involving theft, fraud, dishonesty or deceit,
  - (E) An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the state Health and Safety Code, as it now reads or may hereafter be amended to read;
- (6)The applicant or any officer, employee, or agent thereof who will have access to and control over firearms is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103;
- (7)The applicant or any officer, employee, or agent thereof who will have access to and control over firearms is currently, or has been within the past (5) five years, an unlawful user of a controlled substance as defined by the Health and Safety Code as that definition now reads or may hereafter be amended to read;
- (8)The operation of the business as proposed would not comply with federal, state and local law.

#### **Grounds for permit revocation.**

In addition to the violation of any other provisions contained in this chapter, circumstances constituting grounds for denial of a police permit also constitute grounds for revocation.

#### **Hearing for permit denial or revocation.**

- (a) A person whose application for a permit is denied or revoked by the chief of police has the right to a hearing before the chief of police before final denial or revocation.
- (b) Within ten days of mailing written notice of intent to deny the application or revoke the permit, the applicant may appeal by requesting a hearing before the police chief. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the chief of police shall set a time and place for the hearing within 30 days.
- (c) The decision of the chief of police shall be in writing within ten days of the hearing. An applicant may appeal the decision of the chief of police to the city council in the manner provided.

#### **Nonassignability.**

A police permit issued under this chapter is not assignable. An attempt to assign a police permit makes the permit void.

#### **Compliance by existing dealers.**

A person engaging in firearm sales activity on the effective date of this chapter or any amendment to it shall, within 60 days after the effective date, comply with this chapter and any amendment to it, except for the requirement for a land use permit.

### **Article 2. Land Use Permits**

#### **Firearm sales.**

- (A) Purpose. The purpose of this section is to provide for the appropriate location of firearms dealers through the permitting process.
- (B) Permit Requirement. It is unlawful for any firearms dealer to sell, lease or transfer firearms unless the dealer has obtained a land use permit pursuant to this chapter and a police permit as provided under Article 1. Firearms dealers are permitted in the Retail Business District (RB), General Commercial District (C), Special Retail Business District (SRB) and General Commercial District 1 (C-1). Firearms dealers are prohibited in all other land use districts.
- (C) Procedure. An applicant for a land use permit shall apply to the planning commission by application prescribed by the city in the manner provided.
- (D) Criteria. In addition to the findings required, the planning commission shall review an application for a land use permit for the sale of firearms for satisfaction of the following criteria:
  - (1) Locational compatibility of the proposed use with other existing uses in close proximity, including elementary, middle or high schools, pre-schools or day-care centers, parks, places of worship, other firearms dealers, liquor stores, bars and residentially zoned areas; [or within a specified distance, e.g., 1,000 feet, of such existing uses];
  - (2) Architectural compatibility of the proposed use with other existing uses in the vicinity, due to the requirements regarding a "secure facility".
- (E) Conditions. An approved land use permit is not valid until the applicant satisfies the following terms and conditions:
  - (1) Possession of a valid police permit as required under Article 1;
  - (2) Possession of all licenses and permits required by federal and state law, and;
  - (3) Compliance with the requirements of the city's building code, fire code and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use permit



shall also contain a condition that the applicant must obtain a final inspection from the city building official demonstrating code compliance before the applicant may begin business at the premises at issue.

### **Article 3. Nonconforming Uses.**

#### **Nonconforming Use.**

A firearms dealer located in a residential zone who is the holder of a valid seller's permit issued by the State Board of Equalization and a valid certificate of eligibility issued by the California Department of Justice, all of which were issued prior to the effective date of this ordinance, may continue to sell, lease and transfer firearms provided a police permit and business registration are obtained from the city within 60 days of the effective date of the ordinance codified in this section, and provided the operator remain fully license by all agencies listed above.

#### **Regulations.**

The following regulations apply to each nonconforming use:

- (a) No physical change in the use is permitted other than ordinary maintenance and repair, except as provided.
- (b) No increase or enlargement of the area, space or volume occupied and used is permitted.
- (c) No change in the nature or character of the nonconforming use is permitted.
- (d) If the nonconforming use is replaced by a nonconforming use, the right to continue the nonconforming use is automatically terminated.
- (e) If the nonconforming use discontinues active operation, except for reasons defined, for a continuous period of 120 days, the nonconforming use terminates and the facilities accommodating or serving such activity shall thereafter be utilized only for uses permitted or conditionally permitted by the regulations of the applicable zoning district.