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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA  
DOWNTOWN COURTHOUSE**

G. MITCHELL KIRK; and CALIFORNIA  
RIFLE & PISTOL ASSOCIATION,  
INCORPORATED,

Plaintiffs and Petitioners,

vs.

CITY OF MORGAN HILL; MORGAN HILL  
CHIEF OF POLICE DAVID SWING, in his  
official capacity; MORGAN HILL CITY  
CLERK IRMA TORREZ, in her official  
capacity; and DOES 1-10,

Defendants and Respondents

Case No: 19CV346360

**PLAINTIFFS' REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF OPPOSITION  
TO DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

Date: July 2, 2020  
Time: 9:00 a.m.  
Judge: Judge Peter Kirwan  
Dept.: 19

[Filed concurrently with Opposition to  
Defendants' Motion for Summary  
Judgment; Response to Defendants'  
Separate Statement of Undisputed Facts  
and Additional Undisputed Material  
Facts; Declaration of Anna M. Barvir;  
Evidentiary Objections; and Proposed  
Order for Evidentiary Objections]

Action filed: April 15, 2019

## REQUEST FOR JUDICIAL NOTICE

Please take notice that, under California Evidence Code Rule 452 and California Rules of Court, rules 3.1113(l) and 3.1306(c), Petitioners and Plaintiffs G. Mitchell Kirk and California Rifle & Pistol Association, Incorporated, through their counsel of record respectfully request that this Court take judicial notice of the following adjudicative facts and documents in connection with Plaintiffs' Opposition to Defendants' Motion for Summary Judgment:

<b>Exhibit</b>	<b>Document Description</b>
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Exhibit A	Morgan Hill Municipal Code, ch. 9.04
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Exhibit B	Morgan Hill Municipal Code, ch. 1.19
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Exhibit C	Ballot Pamphlet, General Election (Nov. 8) text of Proposition 63, pp. 163-178 < <a href="https://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf">https://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf</a> >
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Exhibit D	Excerpts from Morgan Hill City Council Agenda Packet (Nov. 28, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1790&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1790&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit E	Minutes, Morgan Hill City Council Meeting (Nov. 28, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1784&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1784&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit F	Excerpts from Morgan Hill City Council Agenda Packet (Oct. 24, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1783&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1783&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit G	Minutes, Morgan Hill City Council Meeting (Oct. 24, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1778&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1778&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit H	Excerpts from Morgan Hill City Council Agenda Packet (May 16, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1736&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1736&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit J	Excerpts from Morgan Hill City Council Agenda Packet (Mar. 7, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1704&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&amp;ID=1704&amp;Inline=True</a> > (as of Apr. 29, 2020)
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Exhibit K	Minutes, Morgan Hill City Council Meeting (Mar. 7, 2018) < <a href="http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1715&amp;Inline=True">http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=12&amp;ID=1715&amp;Inline=True</a> > (as of Apr. 29, 2018)
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- 1 Exhibit L Excerpts from Santa Cruz City Council Agenda Packet (Nov. 24,  
2 2015) <[http://scsire.cityofsantacruz.com/sirepub/mtgviewer.aspx?](http://scsire.cityofsantacruz.com/sirepub/mtgviewer.aspx?meetid=685&doctype=AGENDA)  
3 meetid=685&doctype=AGENDA> (as of Apr. 29, 2020)
- 4 Exhibit M L.A. Municipal Code, § 55.12
- 5 Exhibit N Oakland Municipal Code, § 9.36.131
- 6 Exhibit O Oxnard Municipal Code, § 7-141.1
- 7 Exhibit P Port Hueneme Municipal Code, § 3914.10
- 8 Exhibit Q Sacramento Municipal Code, § 9.32.180
- 9 Exhibit R S.F. Municipal Code, § 616
- 10 Exhibit S Santa Cruz Municipal Code, § 9.30.010
- 11 Exhibit T Simi Valley Municipal Code, § 5-22.12
- 12 Exhibit U Sunnyvale Municipal Code, § 9.44.030
- 13 Exhibit V Thousand Oaks Municipal Code, § 5-11.02
- 14 Exhibit W Tiburon Municipal Code, § 32-27

15 The Court must take the requested judicial notice if the moving party “(a) [g]ives each  
16 adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such  
17 adverse party to prepare to meet the request; and [,] (b) [f]urnishes the court with sufficient  
18 information to enable it to take judicial notice of the matter.” (Evid. Code, § 453.)

19 Here, Exhibits A and B, as well as Exhibits M through W, which are true and correct  
20 excerpts taken from the published municipal codes of various California cities, are judicially  
21 noticeable under Evidence Code section 452, subdivision (b), which permits the Court to take  
22 notice of “[r]egulations and legislative enactments issued by or under the authority of the United  
23 States or any public entity in the United States.” Similarly, Exhibit C is subject to judicial notice  
24 under section 452, subdivision (c), as it constitutes the text of a ballot proposition voted on and  
25 passed by California voters into law.

26 Exhibits D through K constitute the legislative history of Morgan Hill Municipal Code  
27 section 9.04.030, the ordinance at issue in this lawsuit. These documents, true and correct copies of  
28 which were accessed and printed from <https://www.morgan-hill.ca.gov>, the official website of the

1 city of Morgan Hill, are judicially noticeable pursuant to Evidence Code section 452, subdivision  
2 (h). For, as the official legislative records of a local government, Exhibits D through K are “not  
3 reasonably subject to dispute and are capable of immediate and accurate determination by resort to  
4 sources of reasonably indisputable accuracy.” Similarly, Exhibit L is the part of the legislative  
5 history of Santa Cruz Municipal Code section 9.30.010 and is likewise the proper subject of  
6 judicial notice.

7 For these reasons, the Court should grant Plaintiffs’ Request for Judicial Notice in Support  
8 of their summary judgment motion.

9  
10 Dated: June 11, 2020

**MICHEL & ASSOCIATES, P.C.**

11 *s/ Anna M. Barvir*

12 Anna M. Barvir

13 Attorneys for Petitioners/Plaintiffs  
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# **EXHIBIT A**

## Chapter 9.04 - WEAPONS<sup>[1]</sup>

### Footnotes:

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**Editor's note**— Ord. No. 2289 N.S., § 1, adopted Nov. 28, 2018, amended Ch. 9.04 in its entirety to read as herein set out. Former Ch. 9.04, §§ 9.04.010—9.04.040, pertained to similar subject matter and derived from Ord. 290 N.S., § A(part), adopted in 1970; Ord. 1198 N.S., § 1, adopted in 1994; Ord. 1226 N.S., § 2, adopted in 1995; Ord. 1693 N.S., § 2, adopted in 2004; and Ord. No. 2276 N.S., § 35, adopted May 2, 2018.

#### 9.04.010 - Discharge—Permit required—Fee.

- A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.
- B. Subject to review by and as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity of such permit, which must be, in his judgment, necessary for the protection of the applicant or his property, or in the furtherance of the public welfare, and which necessity cannot be reasonably abated by other means.
- C. Applicants for such permit shall provide the following:
  - 1. An application in writing which states the purpose of such permit, the nature of the problem to be abated which necessitates the protection of the applicant, his property or the furtherance of the public welfare, and lists all other means which have been unsuccessfully employed to abate the problem;
  - 2. Proof of liability insurance in the amount of one million dollars per occurrence, obtained by the applicant and naming the city as additional insured, in a form and with companies approved by the city;
  - 3. A certificate of agreement holding the city harmless for any action by applicant under this chapter, in a form prescribed by the city.
- D. Upon approval, such permit may be issued upon payment of a fee of twenty-five dollars and shall be upon conditions and limitations and for such a length of time as the chief of police may determine.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

#### 9.04.020 - Licensed dealers—Posting of regulations.

Any person or business establishment engaged in the business of offering for sale any instrument or device described in Section 9.04.010 of this chapter shall have posted in a conspicuous place in the place of sale, a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

#### 9.04.030 - Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Morgan Hill Police Department within forty-eight hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the city of Morgan Hill; or (2) the theft or loss of the firearm occurs in the city of Morgan Hill.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

9.04.040 - Safe storage of firearms.

No person shall leave a firearm (as defined in Penal Code Section 16520 or as amended) unattended in any residence owned or controlled by that person unless the firearm is stored in a locked container (as defined in Penal Code Section 16850 or as amended), or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

9.04.050 - Possession of large-capacity ammunition magazines prohibited.

- A. No person may possess a large-capacity magazine in the city of Morgan Hill whether assembled or disassembled. For purposes of this section, "large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than ten rounds, but shall not be construed to include any of the following:
  - 1. A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds; or
  - 2. A .22 caliber tubular ammunition feeding device; or
  - 3. A tubular magazine that is contained in a lever-action firearm.
- B. Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety days from such effective date to do either of the following without being subject to prosecution:
  - 1. Remove the large-capacity magazine from the city of Morgan Hill; or
  - 2. Surrender the large-capacity magazine to the Morgan Hill Police Department for destruction; or
  - 3. Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 12020.
- C. This section shall not apply to the following:
  - 1. Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
  - 2. Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
  - 3. A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;
  - 4. Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
  - 5. Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or

33300, when the possession of a large-capacity magazine is in accordance with that license or permit;

6. A licensed gunsmith for purposes of maintenance, repair or modification of the large-capacity magazine;
7. Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;
8. Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if the person can show that the large capacity magazine was included with the purchase of the firearm or no magazine that holds fewer than ten rounds of ammunition is compatible with the firearm, and the person possesses the large-capacity magazine solely for use with such firearm.
9. Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California Penal Code.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

#### 9.04.060 - Confiscation—Authority—Conditions.

Any instrument, device or article used or possessed in violation of the provisions of this chapter is declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and turned over to the chief of police under the conditions set forth in this section. If no complaint for violation of this chapter is filed within seventy-two hours of the taking, the instrument or device shall be returned to the person from whom it was taken. If a complaint for violation of this chapter is filed within seventy-two hours, the chief of police may return it to the person from whose possession it was taken upon such conditions as he deems desirable for the public welfare. If the person from whom it was taken is not convicted of a violation of this chapter, then the device or instrument shall be returned to him without any conditions. If there is a conviction and sixty days have expired since the date of conviction, the same may be destroyed by the chief of police or returned to the person from whom it was taken upon such conditions as the chief deems desirable for the public welfare.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

#### 9.04.070 - Violation.

It is unlawful for any person to violate or cause or permit the violation of the provisions of any section of this chapter.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

# **EXHIBIT B**

## Chapter 1.19 - ADMINISTRATIVE CITATIONS AND FINES<sup>[2]</sup>

Footnotes:

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**Editor's note**— Ord. No. 2276 N.S., § 1, adopted May 2, 2018, repealed the former Ch. 1.19, §§ 1.19.010—1.19.130, and enacted a new chapter as set out herein. The former Ch. 1.19 pertained to similar subject matter and derived from Ord. 1850 N.S. § 2(part), adopted in 2007; Ord. No. 1950 N.S., § 1, adopted Oct. 7, 2009; Ord. No. 2235 N.S., § 1, adopted May 17, 2017.

### 1.19.010 - Applicability.

- A. This chapter provides for an administrative citation process that may be used by the city to address any violation of the municipal code, or any regulations adopted under the authority of the municipal code, including state laws delegated by statute to any city department for enforcement. References to "municipal code" include adopted regulations.
- B. This chapter establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of fines pursuant to California Government Code Section 53069.4, as amended from time to time, or successor legislative enactment.
- C. The provisions of this chapter are cumulative and in addition to any other remedies available under federal, state, or local law.
- D. Use of this chapter shall be at the sole discretion of the city.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

### 1.19.020 - Enforcement officer—Defined.

For purposes of this chapter, "enforcement officer" shall mean any city employee or agent of the city with the authority to enforce any provision of this code.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

### 1.19.030 - Issuance of an administrative citation.

- A. Whenever an enforcement officer charged with the enforcement of any provision of this code determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation. An administrative citation for building, plumbing, electrical, or other similar structural or zoning codes, as specified in Section 1.19.040, may be issued following the correction period specified in the notice of violation unless the violation(s) create an immediate danger to health or safety.
- B. Each administrative citation shall contain the following information:
  - 1. The date of the violation or, if the date of the violation is unknown, then the date the violation is identified;
  - 2. The address or a definite description of the location where the violation occurred;
  - 3. The section of this code violated and a description of the violation;
  - 4. The amount of the fine for the code violation;



5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
  6. An order prohibiting the continuation or repeated occurrence of the Code violation(s) described in the administrative citation;
  7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
  8. The name and signature of the citing enforcement officer.
- C. Each section of the Morgan Hill Municipal Code violated constitutes a separate violation. Each day such violation is committed, continued, or permitted to continue, shall be regarded as a new and separate offense.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.040 - Issuance of a notice of violation for continuing violations of building, plumbing, electrical, or other similar structural or zoning issues.

- A. When an enforcement officer determines that a responsible person has committed a violation of a building, plumbing, electrical, or other similar structural or zoning code, the enforcement officer may issue a notice of violation to the responsible person. Such notice shall serve as a written warning of responsibility and require action by the responsible person to abate the violation(s). A notice of violation shall specify a reasonable time for the responsible person to correct or otherwise remedy the violation. Such reasonable time shall be at least five days from the issuance of the notice of violation unless an enforcement officer determines that the violation creates an immediate danger to health or safety.
- B. On such form as may be provided by the city, any responsible person cited for violation(s) of a building, plumbing, electrical, or other similar structural or zoning code that does not cause immediate danger to health or safety may petition the enforcement officer for an extension of time to correct the violation(s) so long as the petition is received before the end of the correction period, as stated in the notice of violation. The enforcement officer may, in his or her sole discretion, grant an extension of time to correct the violation(s) if the enforcement officer determines that the responsible person has supplied sufficient evidence showing that the correction(s) cannot reasonably be made within the stated period. The enforcement officer's decision shall be final and, notwithstanding any other provision of this code, not subject to appeal except in an appeal challenging the issuance of an administrative citation.
- C. No administrative citation may be issued for a continuing violation of building, plumbing, electrical, or other similar structural or zoning issues unless a notice of violation has first been issued to a responsible person in accordance with this section. Such notice must provide for a reasonable time to cure the violation(s) unless the violations create an immediate danger to health or safety. If, after the correction period, the violation(s) are not abated, the enforcement officer may issue an administrative citation assessing fines in accordance with this chapter.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.050 - Notice of violation recordation.

- A. Recording of notice of violation. The enforcement officer may record a notice of violation with the county recorder on the property which is the subject of the violation after the time limit for compliance if the violation has not been cured within the time limit set for compliance, or the owner or responsible person fails to provide sufficient evidence to establish reasonable doubt that a violation

exists, or, if a hearing is held, after the hearing officer has determined responsibility. The notice shall include a description of the property, a description of the violation.

- B. Right of appeal. If, following recordation of the notice of violation, the owner, responsible person or his or her authorized agent disagrees with the determination that a violation of this code exists on the property and such determination has not already been made as a result of a hearing under this Chapter, he or she may apply for a "cancellation of notice of violation" by requesting a hearing before the hearing officer pursuant to the provisions of this chapter.
- C. Cancellation of notice of violation. The enforcement officer shall submit the "cancellation of notice of violation" to the county recorder for recordation when the violation no longer exists, all required work to abate the violation has been completed, and all related abatement and administrative costs have been reimbursed to the city and approved as determined by the enforcement officer or hearing officer on appeal. A fee shall be paid by the owner or occupant for processing the "cancellation of notice of violation" as set by city council.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.060 - Amount of fines.

- A. Unless a different amount is specified in this code, the amount of the fine payable to the city for an administrative citation shall be set by resolution of the city council.
- B. If no specific fine amount is set, the amount of the fine shall be one hundred dollars for a first violation, two hundred dollars for a second violation of the same ordinance within one year, and five hundred dollars for each additional violation of the same ordinance within one year.
- C. For violations of local building and safety codes, the amount of the fine shall be one hundred dollars for a first violation, five hundred dollars for a second violation of the same ordinance within one year, and one thousand dollars for each additional violation of the same ordinance within one year.
- D. Between July 1 and July 7 and between December 30 and January 2 of each year, the fine for a violation of the following sections will be three times the amount that would otherwise be assessed under subsection B:
  - 1. Section 08.32.010: Sale or possession of fireworks—Prohibited;
  - 2. Section 09.04.010: Discharge—Permit required;
  - 3. Section 09.08.010: Drinking in public—Permit requirement.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.070 - Payment of the fine.

- A. The fine shall be paid to the city within thirty days from the date of service of the administrative citation.
- B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section 1.19.110 if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there were no violation(s) as charged in the administrative citation.
- C. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation(s) that are the subject of the administrative citation.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.080 - Hearing request.

- A. Any recipient of an administrative citation may contest that there was a violation of the code or that he or she is the responsible party by completing a request for hearing form and returning it to the city within thirty days from the date of service of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 1.19.080.
- B. A request for hearing form may be obtained from the department specified on the administrative citation.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.090 - Advance deposit hardship waiver.

- A. Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 1.19.080(A) may file a request for an advance deposit hardship waiver.
- B. The request shall be filed with the department of finance on an advance deposit hardship waiver application form, available from the department of finance, within fifteen days of the date of service of the administrative citation.
- C. The requirement of depositing the full amount of the fine as described in Section 1.19.080(A) shall be stayed unless or until the director of finance or designee makes a determination not to issue the advance deposit hardship waiver.
- D. The director of finance or designee may waive the requirement of an advance deposit set forth in Section 1.19.080(A) and issue the advance deposit hardship waiver only if the cited party submits to the director of finance or designee a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director of finance or designee the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.
- E. If the director of finance or designee determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the city within ten days of the date of that decision or thirty days from the date of service of the administrative citation, whichever is later.
- F. The director of finance or designee shall issue a written determination listing the reason for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the director of finance or designee shall be final.
- G. The written determination of the director of finance or designee shall be served upon the person who applied for the advance deposit hardship waiver.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.100 - Hearing officer.

The city manager shall designate the hearing officer for the administrative citation hearing.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

1.19.110 - Hearing procedure.

- A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section 1.19.080 or an advance deposit hardship waiver has been issued in accordance with Section 1.19.090.
- B. A hearing before the hearing officer shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for hearing is filed in accordance with the provisions of this chapter, unless this time is extended based upon agreement of the parties
- C. The person requesting the hearing shall be notified of the date, time and place set for the hearing at least ten days prior to the date of the hearing.
- D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be mailed to the person requesting the hearing at least five days prior to the date of the hearing.
- E. After a hearing date is set, the enforcement officer or responsible person may apply to the hearing officer for a continuance within ten working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes the good cause for the continuance. A continuance may be granted for good cause after the ten working days have lapsed if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.
- F. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- G. At the hearing, the city and the party contesting the administrative citation shall be given the opportunity to testify, to present evidence, and to call and examine witnesses concerning the administrative citation.
- H. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.
- I. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.
- J. Evidence sought to be introduced is not limited by any legal rules of evidence except for the rule that it must be relevant and material to the issues to be decided.
- K. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

#### 1.19.120 - Hearing officer's decision.

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within thirty days of the conclusion of the hearing to uphold or cancel the administrative citation and shall list in the decision the reason or reasons for that decision. The written decision of the hearing officer shall be final and is an exhaustion of administrative remedies.
- B. The standard of proof shall be by a preponderance of the evidence.
- C. If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.
- D. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.
- E. If the hearing officer determines that the administrative citation should be upheld, and the city has requested administrative costs, the hearing officer may order payment of the administrative costs by the responsible person to the city.

- F. Administrative costs may include any and all costs incurred by the City (both direct and indirect costs) in investigating and commencing administrative proceedings for the violation as well as any and all costs incurred by the city in connection with the hearing before the hearing officer, including but not limited to costs of the code enforcement officer incurred in preparation for the hearing and for participating in the hearing itself and costs of the city to conduct the hearing.
- G. If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, then the City shall promptly refund the amount of the deposited fine.
- H. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.
- I. The employment, performance evaluation, compensation, and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

#### 1.19.130 - Late payment charges.

- A. Unless otherwise provided in this Code, any person who fails to timely pay, in full, any fine imposed pursuant to the provisions of this Chapter, on or before the date that fine is due, shall also be liable for the payment of a late payment charge of ten percent of the amount of the delinquent fine.
- B. Any person who fails to timely pay, in full, any fine imposed pursuant to the provisions of this chapter, on or before thirty days after its due date shall also pay a second penalty of ten percent of the delinquent amount.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

#### 1.19.140 - Recovery of administrative citation fines and costs.

- A. The city may collect any past due administrative citation fine, administrative costs, or late payment charge by use of all available legal means, including filing a civil lawsuit.
- B. Any person who fails to pay any obligation shall be liable in any action brought by the city for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees.
- C. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the delinquent obligation.
- D. Collection costs imposed under this provision shall be added to and become a part of the underlying obligation.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

#### 1.19.150 - Right to judicial review.

Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the superior court in Santa Clara County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

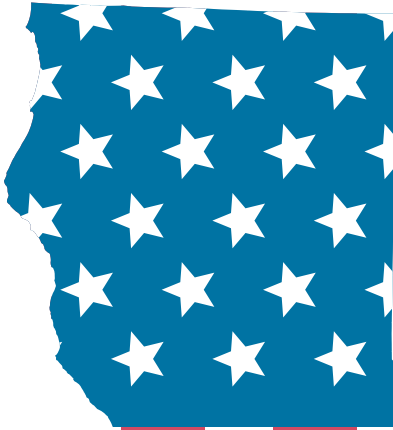
1.19.160 - Service.

- A. The enforcement officer may issue a notice of violation, administrative citation, or any other notice, order, or other document required to be given by this chapter by personal service, mail, or posting as specified below.
  - 1. For personal service, the enforcement officer shall attempt to locate and personally serve the responsible person. If an agent, manager, or representative of a responsible person is personally served, a copy of the document(s) served shall also be mailed to the responsible person at his/her last-known business or residence address as the same appears in the records of the city, or, if the city lacks such records, the county. In such instances, the date a copy of the document(s) is deposited with the U.S. Postal Service shall constitute the service date.
  - 2. For service by mail, the enforcement officer shall mail the document(s) by first class mail with a requested return receipt at the recipient's last-known business or residence address as the same appears in public records of the city, or, if the city lacks such records, the county. The date a copy of the document(s) is deposited with the U.S. Postal Service shall constitute the service date.
  - 3. For violations involving real property, if the enforcement officer is not able to serve the responsible party in person or by mail, the enforcement officer shall post the document(s) on any real property within the city that is the subject of the notice of violation or administrative citation. The date of posting shall constitute the date of service.
- B. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

(Ord. No. 2276 N.S., § 1, 5-2-2018)

# **EXHIBIT C**

# California General Election Tuesday November 8, 2016



Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!

## ★ ★ ★ ★ ★ OFFICIAL VOTER INFORMATION GUIDE ★ ★ ★ ★ ★



### Certificate of Correctness

I, Alex Padilla, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 8, 2016, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 15th day of August, 2016.



Alex Padilla, Secretary of State



subdivision (h) of Section 1170, in connection with a civil action brought against a federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of the award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (e) and (i). The Department of Corrections and Rehabilitation shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages. For any prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency is authorized to make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(o) (1) Amounts transferred to the California Victim Compensation Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation Board. If the restitution payment to a victim is less than twenty-five dollars (\$25), then payment need not be forwarded to that victim until the payment reaches twenty-five dollars (\$25) or when the victim requests payment of the lesser amount.

(2) If a victim cannot be located, the restitution revenues received by the California Victim Compensation Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) (A) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections and Rehabilitation, which shall verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections and Rehabilitation, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (c) or (h).

(B) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the agency designated by the board of supervisors in the county where the prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 is incarcerated, which may verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the agency, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (d) or (h).

#### SEC. 10. Retroactive Application of Act.

(a) In order to best achieve the purpose of this act as stated in Section 3 and to achieve fairness, equality, and uniformity in sentencing, this act shall be applied retroactively.

(b) In any case where a defendant or inmate was sentenced to death prior to the effective date of this act, the sentence

shall automatically be converted to imprisonment in the state prison for life without the possibility of parole under the terms and conditions of this act. The State of California shall not carry out any execution following the effective date of this act.

(c) Following the effective date of this act, the Supreme Court may transfer all death penalty appeals and habeas petitions pending before the Supreme Court to any district of the Court of Appeal or superior court, in the Supreme Court's discretion.

#### SEC. 11. Effective Date.

This act shall become effective on the day following the election at which it was approved, pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

#### SEC. 12. Severability.

The provisions of this act are severable. If any provision of this act or its application is held invalid, including but not limited to Section 10, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## PROPOSITION 63

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

### The Safety for All Act of 2016

#### SECTION 1. Title.

This measure shall be known and may be cited as "The Safety for All Act of 2016."

#### SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this state every 39 days.

2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.

3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.

4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American

per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.

5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn in their guns, but also ensuring that it happens.

11. Military-style large-capacity ammunition magazines—some capable of holding more than 100 rounds of ammunition—significantly increase a shooter's ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America's most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity

ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the state to report who is prohibited from possessing firearms to the federal background check system.

14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

### SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting "The Safety for All Act of 2016" (the "Act") to be as follows:

1. To implement reasonable and common-sense reforms to make California's gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.

2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.

3. To ensure that those who buy ammunition in California—just like those who buy firearms—are subject to background checks.

4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.

5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.

6. To require the reporting of lost or stolen firearms to law enforcement.

7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.

8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.

9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with Sections 25400 and 1192.7 of the Penal Code.

### SEC. 4. Lost or Stolen Firearms.

SEC. 4.1. Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

**DIVISION 4.5. LOST OR STOLEN FIREARMS**

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

25255. Section 25250 shall not apply to the following:

(a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

(b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

(c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.

(d) Any person whose firearm was lost or stolen prior to July 1, 2017.

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction, punishable by a fine not to exceed one hundred dollars (\$100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine not exceeding one thousand dollars (\$1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

SEC. 4.2. Section 26835 of the Penal Code is amended to read:

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(c) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(e) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(f) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(g) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."



*(h) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."*

SEC. 5. Strengthening the National Instant Criminal Background Check System.

SEC. 5.1. Section 28220 of the Penal Code is amended to read:

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~To the extent that funding is available, the~~ The Department of Justice ~~may shall~~ participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, ~~if that participation is implemented,~~ shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of

that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f) (1) (A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or

record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

*(g) Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the department shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.*

SEC. 6. Possession of Large-Capacity Magazines.

SEC. 6.1. Section 32310 of the Penal Code is amended to read:

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, ~~commencing January 1, 2000~~, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, "manufacturing" includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

*(c) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who*

*possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.*

*(d) Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:*

*(1) Remove the large-capacity magazine from the state;*

*(2) Sell the large-capacity magazine to a licensed firearms dealer; or*

*(3) Surrender the large-capacity magazine to a law enforcement agency for destruction.*

SEC. 6.2. Section 32400 of the Penal Code is amended to read:

32400. Section 32310 does not apply to the sale of, giving of, lending of, *possession of*, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 6.3. Section 32405 of the Penal Code is amended to read:

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, *possession of*, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer's duties.

SEC. 6.4. Section 32406 is added to the Penal Code, to read:

*32406. Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.*

SEC. 6.5. Section 32410 of the Penal Code is amended to read:

32410. Section 32310 does not apply to the sale, or purchase, *or possession* of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

SEC. 6.6. Section 32420 of the Penal Code is repealed.

~~32420. Section 32310 does not apply to the importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the same large-capacity magazine.~~

SEC. 6.7. Section 32425 of the Penal Code is amended to read:

32425. Section 32310 does not apply to either *any* of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) *The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).*

(b) (c) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 6.8. Section 32435 of the Penal Code is amended to read:

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, *possession of*, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) *The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for purposes that pertain to the entity's armored vehicle business.*

(e) (d) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

SEC. 6.9. Section 32450 of the Penal Code is amended to read:

32450. Section 32310 does not apply to the purchase *or possession* of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

(a) For use solely as a prop for a motion picture, television, or video production.

(b) For export pursuant to federal regulations.

(c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

SEC. 7.1. Section 26885 of the Penal Code is amended to read:

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

(1) Any firearm *or ammunition* that is merchandise of the licensee.

(2) Any firearm *or ammunition* that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050), *or pursuant to Section 30312.*

(3) Any firearm *or ammunition* kept at the licensee's place of business.

SEC. 7.2. Section 26915 of the Penal Code is amended to read:

26915. (a) *Commencing January 1, 2018, a* A firearms dealer ~~may~~ *shall* require any agent *or employee* who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d) (1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents *or employees*.

(g) For purposes of this article, "secured" means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department's roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an 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 boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

SEC. 8.1. Section 16150 of the Penal Code is amended to read:

16150. (a) ~~As used in Section 30300, "ammunition" means handgun ammunition as defined in Section 16650. As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, "ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.~~

(b) As used in subdivision (a) of Section 30305 and in Section 30306, "ammunition" includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

SEC. 8.2. Section 16151 is added to the Penal Code, to read:

16151. (a) *As used in this part, commencing January 1, 2018, "ammunition vendor" means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.*

(b) *Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.*

SEC. 8.3. Section 16662 of the Penal Code is repealed.

~~16662. As used in this part, "handgun ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.~~

SEC. 8.4. Section 17315 of the Penal Code is amended to read:

17315. ~~As used in Article 3 (commencing with Section 30345) Articles 2 through 5 of Chapter 1 of Division 10 of Title 4, "vendor" means a handgun ammunition vendor.~~

SEC. 8.5. Section 30306 of the Penal Code is amended to read:

30306. (a) Any person, corporation, ~~or~~ firm, ~~or other business enterprise~~ who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) *Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise*

*knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.*

~~(b)~~ (c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

SEC. 8.6. Section 30312 of the Penal Code is amended to read:

30312. (a) ~~Commencing February 1, 2011, the~~ (1) *Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.*

(2) *When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.*

(b) *Commencing January 1, 2018, the sale, delivery or transfer of ownership of handgun ammunition by any party may only occur in a face-to-face transaction with the seller, deliverer, or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.*

~~(b)~~ (c) ~~Subdivision~~ Subdivisions (a) and (b) shall not apply to or affect the sale, delivery, or transfer of handgun ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ~~handgun~~ ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of *exempted federal firearms licensees* maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) ~~A handgun~~ An ammunition vendor.

(8) A consultant-evaluator.

(9) *A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.*

(10) *A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.*

(e) (d) A violation of this section is a misdemeanor.

SEC. 8.7. Section 30314 is added to the Penal Code, to read:

30314. (a) *Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.*

(b) *Subdivision (a) does not apply to any of the following:*

(1) *An ammunition vendor.*

(2) *A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.*

(3) *An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.*

(4) *A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.*

(5) *A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of*

*eligibility issued by the Department of Justice pursuant to Section 26710.*

(6) *A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.*

(c) *A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.*

SEC. 8.8. The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

#### Article 3. ~~Handgun~~ Ammunition Vendors

SEC. 8.9. Section 30342 is added to the Penal Code, immediately preceding Section 30345, to read:

30342. (a) *Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.*

(b) *A violation of this section is a misdemeanor.*

SEC. 8.10. Section 30347 of the Penal Code is amended to read:

30347. (a) *An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.*

(b) *The department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under subdivision (a) of Section 30305 or federal law.*

(c) ~~A~~ *An ammunition vendor shall not permit any agent or employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver, or have under his or her custody or control, any ~~handgun~~ ammunition in the course and scope of employment.*

SEC. 8.11. Section 30348 is added to the Penal Code, to read:

30348. (a) *Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.*

(b) *A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.*

(c) *For purposes of this section, "gun show or event" means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.*



(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

SEC. 8.12. Section 30350 of the Penal Code is amended to read:

30350. A An ammunition vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

SEC. 8.13. Section 30352 of the Penal Code is amended to read:

30352. (a) Commencing February 1, 2011, a July 1, 2019, an ammunition vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording the following information on a form to be prescribed by the Department of Justice:

(1) The date of the sale or other transaction transfer.

(2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.

(3) The brand, type, and amount of ammunition sold or otherwise transferred.

(4) The purchaser's or transferee's full name and signature.

(5) The name of the salesperson who processed the sale or other transaction.

~~(6) The right thumbprint of the purchaser or transferee on the above form.~~

~~(7) (6)~~ The purchaser's or transferee's full residential address and telephone number.

~~(8) (7)~~ The purchaser's or transferee's date of birth.

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

(1) A person authorized to purchase ammunition pursuant to Section 30370.

(2) A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer,

and the ammunition is delivered to the person in the same transaction as the firearm.

(d) Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

~~(b) (e) Subdivision~~ Subdivisions (a) and (d) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:

~~(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.~~

~~(2) (1) A handgun~~ An ammunition vendor.

~~(3) (2)~~ A person who is on the centralized list of exempted federal firearms licensees maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

~~(4) (3) A target facility that holds a business or regulatory license~~ person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

~~(5) (4)~~ A gunsmith.

~~(6) (5)~~ A wholesaler.

~~(7) (6)~~ A manufacturer or importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

~~(8) (7)~~ An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.

(8) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(f) (1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.

(3) The vendor shall keep the certification with the record of sale and submit the certification to the department.

(g) The department is authorized to adopt regulations to implement the provisions of this section.

SEC. 8.14. Section 30363 is added to the Penal Code, to read:

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

(1) Any ammunition that is merchandise of the vendor.

(2) Any ammunition that the vendor takes possession of pursuant to Section 30312.

(3) Any ammunition kept at the vendor's place of business.

SEC. 8.15. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

#### Article 4. Ammunition Purchase Authorizations

30370. (a) (1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department of Justice for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019, or the date of issuance, whichever is later, unless it is revoked by the department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the department pursuant to this section. The department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law.

(3) The applicant pays the fees set forth in subdivision (g).

(e) (1) Upon receipt of an initial or renewal application, the department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare

and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under subdivision (a) of Section 30305 or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the department. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(3) If the department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the department shall grant authorization to the applicant.

(4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.

(f) The department shall renew a person's ammunition purchase authorization before its expiration, provided that the department determines that the person is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).

(g) The department may charge a reasonable fee not to exceed fifty dollars (\$50) per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.

(h) The Ammunition Safety and Enforcement Special Fund is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.

(i) The department shall annually review and may adjust all fees specified in subdivision (g) for inflation.

(j) The department is authorized to adopt regulations to implement the provisions of this section.

30371. (a) There is hereby appropriated twenty-five million dollars (\$25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund.

SEC. 8.16. Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

*Article 5. Ammunition Vendor Licenses*

*30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the department shall inform the applicant of the reason for denial in writing.*

*(b) The ammunition vendor license shall be issued in a form prescribed by the department and shall be valid for a period of one year. The department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.*

*(c) (1) In the case of an entity other than a natural person, the department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.*

*(2) For purposes of this article, "responsible person" means a person having the power to direct the management, policies, and practices of the entity as it pertains to ammunition.*

*(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342).*

*30390. (a) The Department of Justice may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.*

*(b) The fees received by the department pursuant to this article shall be deposited in the Ammunition Vendors Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the department for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.*

*(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the department for the purpose of implementing and enforcing the provisions of this article.*

*30395. (a) The Department of Justice is authorized to issue ammunition vendor licenses to applicants who the department has determined, either as an individual or a responsible person, are not prohibited from possessing, receiving, owning, or purchasing ammunition under subdivision (a) of Section 30305 or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller's permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the department.*

*(b) The department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be*

*provided access to the registry for law enforcement purposes.*

*(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342).*

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SEC. 10. Securing Firearms From Prohibited Persons.

SEC. 10.1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.



(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

*(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to paragraph (3) of subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.*

~~(15)~~ (16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

~~(16)~~ (17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d),

(e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for

determination by the court, any item that appears to be privileged as provided by law.

(d) (1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney’s ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may

issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SEC. 10.2. Section 27930 of the Penal Code is amended to read:

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

(a) Sections 18000 and 18005.

(b) Division 4 (commencing with Section 18250) of Title 2.

(c) Chapter 2 (commencing with Section 33850) of Division 11.

(d) Sections 34005 and 34010.

(e) *Section 29810.*

SEC. 10.3. Section 29810 of the Penal Code is amended to read:

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) *This section shall be repealed effective January 1, 2018.*

SEC. 10.4. Section 29810 is added to the Penal Code, to read:

29810. (a) (1) *Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.*

(2) *The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.*

(3) *Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party*

who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether

the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.



(e) *The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the five-day period following conviction:*

(1) *The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.*

(2) *If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.*

(3) *If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.*

(4) *If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).*

(f) *For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.*

(g) *The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.*

(h) *Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.*

(i) *A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice,*

*or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.*

(j) *A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.*

(k) *This section shall become operative on January 1, 2018.*

SEC. 11. Theft of Firearms.

SEC. 11.1. Section 490.2 of the Penal Code is amended to read:

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) *This section shall not apply to theft of a firearm.*

SEC. 11.2. Section 29805 of the Penal Code is amended to read:

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, *Section 490.2 if the property taken was a firearm*, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not

exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

#### SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

#### SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

#### SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

#### SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

#### SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court

of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

## PROPOSITION 64

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

### SECTION 1. Title.

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

### SEC. 2. Findings and Declarations.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

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# **EXHIBIT D**



**Regular Meeting Agenda**  
**City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, November 28, 2018 7:00 pm**

**Council Chamber**  
**17555 Peak Avenue, Morgan Hill, CA 95037**

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The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

**CALL TO ORDER**

*(Mayor Tate)*

**ROLL CALL ATTENDANCE**

**DECLARATION OF POSTING AGENDA**

Per Government Code Section 54954.2  
*(Deputy City Clerk Bigelow)*

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**CITY COUNCIL REPORTS**

Council Member Carr

**CITY MANAGER'S REPORT**

City Manager Christina Turner

# **RECOGNITIONS**

## **Quarterly Teammate Recognition**

### **New Hires**

Sergio Lopez - Police Officer  
Elysa Olivares, Human Resources Technician

### **New Promotions**

Jake Hess, Fire Chief

### **Retirements**

Troy Hoefling, Police Sergeant  
Derek Witmer, Fire Chief

## **2018 Peak Performance Award Recipients**

**Employee of the Year** - Shane Palsgrove

**Customer Service** - Tony Haro

**Challenge** - Inga Alonzo, Frank Alvarez

**Professional Growth** - Christie Thomas

**Innovation** - John Henry, Mark Rauscher, Pam van der Leeden

**Teamwork** - Eric Blomquist, Daniel Cardwell, John Amos, Rudy Medina, Shawn Lopez, Steve Pennington, Caitlin Souza, Elizabeth Bassett, Anna King, Lucy Steuber

**Get-Er Done!** - Anthony Eulo

**Highest of High Fives!** - Margarita Huertas-Balagso

**Community Whisperer** - John Amos

## **Service Year Recipients**

### **35 Years**

Toni Maiquez, Public Safety Dispatcher

### **30 Years**

John Henry, Engineering Technician  
Johnny Gonzales, Utility Worker  
Troy Hoefling, Police Sergeant

### **20 Years**

Teo Herrera, Utility Worker  
Anna King, Development Services Technician

### **15 Years**

Jorge Lopez, Custodian  
Chiquy Mejia, Recreation Coordinator

### **10 Years**

Carson Thomas, Police Sergeant  
Candice Abdurahman, Public Safety Dispatcher  
Lisa Cardenas, Executive Assistant to the Chief of Police  
Jennifer Ponce, Emergency Services Coordinator  
Scott Martin, Police Corporal  
Johnny Roberson, I.S. Technician  
Tom Neff, Utility Supervisor  
Tim Conlon, Utility Worker  
Michelle Bigelow, Council Services and Records Manager  
Sandra Diner, Office Assistant II

### **5 Years**

**39**

November 28, 2018

Kevin Nelson, Water Quality Specialist  
Santiago Fierro, Police Officer  
Jason Lorenzo, Multi Services Officer  
Fernando Del Moral, Police Officer  
Christopher Gridley, Police Corporal  
Todd Davis, Police Officer  
Erica Corona, Human Resources Technician  
Angie Gonzalez, Council Services Assistant

## **TEAMMATE RECOGNITION PRESENTATION**

### **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin

### **OTHER REPORTS**

### **PRESENTATIONS**

#### **YAC PRESENTATION- ASSET #41- POSITIVE CULTURAL IDENTITY**

### **PUBLIC COMMENT**

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

### **ADOPTION OF AGENDA**

### **CONSENT CALENDAR**

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

#### **1. APPOINTMENT TO THE PARKS AND RECREATION COMMISSION**

Recommendation:

Appoint Neil Berman to serve on the Parks and Recreation Commission to fill a vacancy with a term ending April 1, 2022.

#### **2. AWARD AQUATICS CENTER SLIDE REPAIR AND REFURBISHMENT**

Recommendation:

1. Adopt resolution amending the Fiscal Year 2018-19 adopted budget to appropriate an additional \$54,000 from the General Fund (010) to Building Maintenance Fund (740) for the Aquatics Center Slides Refurbishment Project;
2. Award contract to Teca Aquatics Innovations, Inc. in the amount of \$130,290; and Authorize the expenditure of contingency funds not to exceed \$13,029; and
3. Authorize the City Manager to execute and administer that certain construction contract with Teca Aquatics Innovations, Inc.

**3. AWARD LANDSCAPE MAINTENANCE AGREEMENT FOR CITY FACILITIES AND ASSESSMENT DISTRICTS**

Recommendation:

1. Award a two-year contract to Brightview Landscape Services, Inc. in the amount of \$300,648 to service Group 2: City Facilities, Group 4: Landscape Assessment Districts, and extra services; and
2. Authorize the City Manager to execute and administer the Maintenance Service Agreement with Brightview Landscape Services and to extend the agreement for up to three, one-year additional terms.

**4. APPROVE CONSULTANT AGREEMENT WITH CITYGATE ASSOCIATES, LLC., FOR FIRE STANDARDS OF COVERAGE (SOC) STUDY AND COMMUNITY RISK ASSESSMENT, AND REIMBURSEMENT AGREEMENTS WITH CITY OF GILROY AND SOUTH SANTA CLARA COUNTY FIRE DISTRICT**

Recommendation:

1. Approve and authorize the City Manager to review, negotiate, amend, and execute a consultant agreement with Citygate Associates, LLC for a Sub-Regional South County Standards of Coverage (SOC) and community risk assessment study in the amount of \$79,530;
2. Authorize the expenditure of contingency funds not to exceed \$3,970;
3. Adopt resolution amending the Fiscal Year (FY) 2018-19 adopted budget, to appropriate \$83,500 from the General Fund (010) for the study to be prepared by Citygate Associates, LLC; and
4. Approve and authorize the City Manager to review, amend, and execute reimbursement agreements with the City of Gilroy (\$31,520) and South Santa Clara County Fire District (\$24,735) for their share of the study, including any future amendments subject to change in scope, up to the available contingency amount of \$3,970.

**5. ADOPT A RESOLUTION OF INTENT TO ESTABLISH A TOURISM BUSINESS IMPROVEMENT DISTRICT**

Recommendation:

1. Adopt resolution declaring the City's intention to establish the Morgan Hill Tourism Business Improvement District (MHTBID) to levy assessments within the District and setting a time and place for a public hearing;
2. Direct the City Clerk to mail written notice to the owners of all businesses proposed to be within the District; and
3. Appoint the Economic Development Director and the Public Services Director to the MHTBID Owners' Association Board.

**6. PILOT PROJECT TO REDUCE USE OF RODENTICIDES AT CITY FACILITIES**

Recommendation:

Direct staff to implement a rodenticide reduction pilot project and report on the project's findings and results at the June 5, 2019 City Council meeting.

**7. ADOPT ORDINANCE AMENDING CHAPTER 9.04 (“WEAPONS”) OF TITLE 9 (“PUBLIC PEACE, MORALS AND WELFARE”) OF THE MORGAN HILL MUNICIPAL CODE TO REQUIRE SAFE FIREARMS STORAGE, REQUIRE THE REPORTING OF FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY MAGAZINES**

Recommendation:

Waive the reading, adopt Ordinance No. 2289, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**8. APPROVE THE NOVEMBER 7, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

**OTHER BUSINESS**

**9. PROVIDE DIRECTION REGARDING MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN ALTERNATIVES**

Recommendation:

1. Receive presentation on Monterey Corridor Block-Level Master Plan Alternatives; and
2. Direct staff to proceed with Monterey Corridor Block-Level Master Plan process.

Estimated Time: 30 Minutes

**10. INTRODUCE ORDINANCE DELEGATING AUTHORITY TO CITY MANAGER TO APPOINT CITY CLERK**

Recommendation:

1. Waive the first and second reading of the ordinance delegating the appointment authority of the City Clerk position to the City Manager; and
2. Introduce the ordinance.  
OR
3. Direct staff to return with a job description and employment contract for the City Clerk position to report into the City Council.

Estimated Time: 15 Minutes

**PUBLIC HEARING**

**11. INTRODUCE ORDINANCE REGULATING FIREARMS DEALERS**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance adding Chapter 5.68 titled “Firearms Dealers,” to Title 5 (Business Licenses Generally) of the Morgan Hill Municipal code, to provide uniform regulations applicable to all firearm dealers in Morgan Hill.

Estimated Time: 30 Minutes

**12. ZA2018-0006: HALF - TRUMARK: ZONING AMENDMENT TO AMEND THE ZONING MAP DESIGNATION FOR TWO PARCELS FROM R-2 3,500/PD TO RAL-3,500. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 728-30-003 AND -004, ARE LOCATED ON THE NORTHERLY SIDE OF HALF ROAD BETWEEN CONDIT ROAD AND MISSION VIEW DRIVE (LLAGAS LLC, OWNER)**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance approving zoning amendment; and
3. Introduce the ordinance.

Estimated Time: 15 Minutes

**CLOSED SESSION**

**OPPORTUNITY FOR PUBLIC COMMENT**

**ADJOURN TO CLOSED SESSION**

**CONFERENCE WITH LABOR NEGOTIATOR:**

Authority:	Pursuant to Government Code Section 54957.6
City Negotiators	Christina Turner City Manager; Cindy Murphy Assistant City Manager for Administrative Services; Michelle Katsuyoshi Human Resources Director; Edward Kreisberg, Meyers Nave; Jesse Lad, Meyers Nave
Employee Organization:	Morgan Hill Police Officers Association AFSCME Local 101 Morgan Hill Community Service Officers Association

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Pursuant to Government Code Section 54956.9(d)(1)
Case Name:	O'Malley v. City of Morgan Hill
Case Number:	Santa Clara County Superior Court Case No: 16-CV-300450

**RECONVENE**

**CLOSED SESSION ANNOUNCEMENT**

**FUTURE COUNCIL INITIATED AGENDA ITEMS**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**

## NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

## PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov).

## AMERICANS WITH DISABILITIES ACT (ADA)

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov). Requests must be made as early as possible and at least two-full business days before the start of the meeting.*





## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: November 28, 2018**

PREPARED BY: Angie Gonzalez, Council Services Assistant  
APPROVED BY: City Manager

### **ADOPT ORDINANCE AMENDING CHAPTER 9.04 (“WEAPONS”) OF TITLE 9 (“PUBLIC PEACE, MORALS AND WELFARE”) OF THE MORGAN HILL MUNICIPAL CODE TO REQUIRE SAFE FIREARMS STORAGE, REQUIRE THE REPORTING OF FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY MAGAZINES**

#### **RECOMMENDATION(S)**

Waive the reading, adopt Ordinance No. 2289, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

#### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

##### **Ongoing Priorities**

Enhancing Public Safety  
Supporting Our Youth  
Seniors  
and Entire Community

#### **REPORT NARRATIVE:**

On October 24, 2018, the City Council introduced Ordinance No. 2289 New Series, by the following roll call vote: AYES: Carr, Constantine, Jachimowicz, Tate; NOES: Spring; ABSTAIN: None; ABSENT: None.

Ordinance No. 2289 will amend the existing “Weapons” ordinance by requiring the reporting of lost or stolen firearms to the Morgan Hill Police Department within 48 hours of discovery, requiring the safe storage of firearms when unattended, and banning large capacity ammunition magazines except in specified circumstances.

#### **COMMUNITY ENGAGEMENT: Consult**

As discussed above, City staff engaged in extensive outreach and took community comments into consideration when drafting the proposed ordinance.

#### **ALTERNATIVE ACTIONS:**

None.

#### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

On March 7, 2018, the City Council adopted a resolution condemning recent mass shootings and advocating for local, state, and federal measures to reduce gun violence.

On March 19, 2018, the City Council directed the City Attorney to draft ordinances requiring gun owners to report the loss or theft of a firearm; requiring the safe storage of firearms; prohibiting the possession of large capacity magazines; and requiring a local permit to conduct retail firearm and/or ammunition sales.

On May 16, 2018, the City Attorney provided an update to Council on the proposed ordinances. At that meeting, Staff was directed to conduct further outreach to the community, including a meeting with an ad hoc committee of the Council.

On October 24, 2018, the City Council introduced the ordinance and held a public hearing.

**FISCAL AND RESOURCE IMPACT:**

Some staff time will be required for additional outreach and education. All staff time, including enforcement, will be incorporated into existing work-plans.

**CEQA (California Environmental Quality Act):**

The proposals set forth in this report are exempt from CEQA under Guideline §15061(b) because the actions as proposed will have no significant effect on the environment.

**LINKS/ATTACHMENTS:**

1. 2289- Firearms Ordinance
2. 07 Supplement 1
3. 07 Supplement 2
4. 07 Supplement 3

## ORDINANCE NO. 2289, NEW SERIES

### AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CHAPTER 9.04 (“WEAPONS”) OF TITLE 9 (“PUBLIC PEACE, MORALS AND WELFARE”) OF THE MORGAN HILL MUNICIPAL CODE TO REQUIRE SAFE FIREARMS STORAGE, REQUIRE THE REPORTING OF FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY MAGAZINES

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA DOES ORDAIN AND ENACT AS FOLLOWS:**

**SECTION 1:** Chapter 9.04 (“Weapons”) of Title 9 (“Public Peace, Morals and Welfare”) is hereby amended to read as follows:

**“9.04.010 - Discharge—Permit required—Fee.**

- A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.
- B. Subject to review by and as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity of such permit, which must be, in his judgment, necessary for the protection of the applicant or his property, or in the furtherance of the public welfare, and which necessity cannot be reasonably abated by other means.
- C. Applicants for such permit shall provide the following:
  - 1. An application in writing which states the purpose of such permit, the nature of the problem to be abated which necessitates the protection of the applicant, his property or the furtherance of the public welfare, and lists all other means which have been unsuccessfully employed to abate the problem;
  - 2. Proof of liability insurance in the amount of one million dollars per occurrence, obtained by the applicant and naming the city as additional insured, in a form and with companies approved by the city;
  - 3. A certificate of agreement holding the city harmless for any action by applicant under this chapter, in a form prescribed by the city.
- D. Upon approval, such permit may be issued upon payment of a fee of twenty-five dollars and shall be upon conditions and limitations and for such a length of time as the chief of police may determine.

#### **9.04.020 - Licensed dealers—Posting of regulations.**

Any person or business establishment engaged in the business of offering for sale any instrument or device described in [Section 9.04.010](#) of this chapter shall have posted in a conspicuous place in the place of sale, a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device.

#### **9.04.030. Duty to report theft or loss of firearms.**

Any person who owns or possesses a firearm (as defined in [Penal Code](#) Section 16520 or as amended) shall report the theft or loss of the firearm to the Morgan Hill Police Department within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the city of Morgan Hill; or (2) the theft or loss of the firearm occurs in the city of Morgan Hill.

#### **9.04.040. Safe storage of firearms.**

No person shall leave a firearm (as defined in [Penal Code](#) Section 16520 or as amended) unattended in any residence owned or controlled by that person unless the firearm is stored in a locked container (as defined in Penal Code Section 16850 or as amended), or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.

#### **9.04.050. Possession of large-capacity ammunition magazines prohibited.**

- A. No person may possess a large-capacity magazine in the city of Morgan Hill whether assembled or disassembled. For purposes of this section, "large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:
  1. A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or
  2. A .22 caliber tubular ammunition feeding device; or
  3. A tubular magazine that is contained in a lever-action firearm.
- B. Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:
  1. Remove the large-capacity magazine from the city of Morgan Hill; or
  2. Surrender the large-capacity magazine to the Morgan Hill Police Department for destruction; or
  3. Lawfully sell or transfer the large-capacity magazine in accordance with [Penal Code](#) Section 12020.

C. This section shall not apply to the following:

1. Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
2. Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
3. A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;
4. Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
5. Any person who has been issued a license or permit by the California Department of Justice pursuant to [Penal Code](#) Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large-capacity magazine is in accordance with that license or permit;
6. A licensed gunsmith for purposes of maintenance, repair or modification of the large-capacity magazine;
7. Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;
8. Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if the person can show that the large capacity magazine was included with the purchase of the firearm or no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm, and the person possesses the large-capacity magazine solely for use with such firearm.
9. Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California [Penal Code](#).

**9.04.060- Confiscation—Authority—Conditions.**

Any instrument, device or article used or possessed in violation of the provisions of this chapter is declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and turned over to the chief of police under the conditions set forth in this section. If no complaint for violation of this chapter is filed within seventy-two hours of the taking, the instrument or device shall be returned to the person from whom it was taken. If a complaint for violation of this chapter is filed within seventy-two hours, the chief of police may return it to the person from whose possession it was taken upon such conditions as he deems desirable for the public welfare. If the person from whom it was taken is not convicted of a violation of this chapter, then the device or instrument shall be returned to him without any conditions. If there is a conviction and sixty days have expired since the date of conviction, the same may be destroyed by the chief of police or returned

to the person from whom it was taken upon such conditions as the chief deems desirable for the public welfare.

#### **9.04.070- Violation.**

It is unlawful for any person to violate or cause or permit the violation of the provisions of any section of this chapter.

**SECTION 2.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 3.** Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its passage and adoption. The City Clerk is hereby directed to publish in full or summary this ordinance pursuant to §36933 of the Government Code in a newspaper of general circulation in the City of Morgan Hill.

**THE FOREGOING ORDINANCE WAS INTRODUCED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 24<sup>TH</sup> DAY OF OCTOBER 2018 AND WAS FINALLY ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 28<sup>TH</sup> DAY OF NOVEMBER 2018 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:**

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**APPROVED:**

\_\_\_\_\_  
**STEVE TATE, Mayor**

**ATTEST:**

**DATE:**

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

\_\_\_\_\_

∞ **CERTIFICATE OF THE CITY CLERK** ∞

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2289, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 28<sup>th</sup> day of November 2018.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

Attachment: 2289- Firearms Ordinance (2064 : Adopt Ordinance 2289- Amendment to chapter 9.04 Weapons)

**Item # 7****AGENDA DATE: 11/28/18  
SUPPLEMENT # 1**

From: Jeff Klopotic <[jeff@gs2ac.com](mailto:jeff@gs2ac.com)>

Sent: Tuesday, November 27, 2018 3:40 PM

To: Michelle Bigelow <[Michelle.Bigelow@morganhill.ca.gov](mailto:Michelle.Bigelow@morganhill.ca.gov)>

Subject: Morgan Hill may want to review proposed firearms ordinances in light of likely lawsuit due to state preemption

Hello Michelle,

Just a heads up, I called earlier and left a message.

I just wanted to get a comment into the city council members that the ordinance regarding firearms , being heard tomorrow night, has a mandatory reporting requirement in it. I also wanted to include that it has been successfully fought in court such that cities such as Saratoga and Palm Springs are repealing it and or not including it in their proposed ordinances.

As a result, the Morgan Hill City Council may want to re-examine the ordinance as written. And maybe pull it off the calendar pending further review.

<https://www.carpa.org/carpa-news/victory-on-local-ordinance-issues/>

Jeff Klopotic

Attachment: 07 Supplement 1 (2064 : Adopt Ordinance 2289- Amendment to chapter 9.04 Weapons)





## Community Voice

### Item # 07

AGENDA DATE: 11/28/18  
SUPPLEMENT # 2

Feature Over

[View all initiatives](#)

[View all ideas in Suggest a New Initiative](#)

## Pull 28 Nov mtg proposed firearms ordinance for further consideration in light of state preemption lawsuits



Jeff Klopotic  
5 points

Nov 27, 2018

Table or Kill the Proposed Gun Ban Ordinances.

The current gun ban ordinance has provisions for a mandatory reporting requirement for lost or stolen guns that has been rescinded or pulled from existing or proposed ordinances in Palm Springs and Saratoga. The City Council, for the Nov. 28 meeting, may want to pull it from the agenda before the meeting starts for subsequent review. Also see:

<https://www.crpa.org/crpa-news/victory-on-local-ordinance-issues/>

Also, Saratoga City Councilman Howard Miller was claiming "overwhelming support" for Saratoga's proposed mandatory storage ordinance in the thousands. When put to a vote on Next Door, the results were actually 51% Against, 44% For and 3% saying to table it next year. So if Morgan Hill is anything like Saratoga when it comes to guns and public safety, there is also likely negative support for this ordinance proposal here as well.

**Item # 07****AGENDA DATE: 11/28/18  
SUPPLEMENT # 3**

**From:** [Michelle Bigelow](#)  
**To:** [Angie Gonzalez](#)  
**Subject:** FW: Ordinance No. 2289  
**Date:** Wednesday, November 28, 2018 9:14:40 PM

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**From:** Harry <harrydwyer@aol.com>  
**Sent:** Wednesday, November 28, 2018 4:58 PM  
**To:** Michelle Bigelow <Michelle.Bigelow@morganhill.ca.gov>  
**Subject:** Ordinance No. 2289

Ordinance No. 2289, amending Chapter 9.04 of Title 9 of the Morgan Hill Municipal Code, is on the consent calendar of Morgan Hill's City Council meeting on November 28, 2018. This gun ordinance is pure political grandstanding.

Harry Dwyer

Attachment: 07 Supplement 3 (2064 : Adopt Ordinance 2289- Amendment to chapter 9.04 Weapons)

# **EXHIBIT E**



**Meeting Minutes  
City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, November 28, 2018 7:00 pm**

**Council Chamber  
17555 Peak Avenue, Morgan Hill, CA 95037**

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The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

**CALL TO ORDER**

Mayor Tate called the meeting to order at 7:02 p.m.

**ROLL CALL ATTENDANCE**

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Rich Constantine	Mayor Pro Tem	Absent	
Larry Carr	Council Member	Late	7:15 PM
Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

**DECLARATION OF POSTING AGENDA**

Deputy City Clerk Michelle Bigelow declared the posting of the agenda.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Carr had no report.

## **CITY MANAGER'S REPORT**

City Manager Christina Turner mentioned the evening's supplements and presentations. She announced that the election results will be certified by the County of Santa Clara Registrar of Voter's Office on December 6<sup>th</sup>, just in time for the City Council to certify the results on December 12<sup>th</sup>. She shared that the December 12<sup>th</sup> meeting will start at 7:00 p.m., the current Council will take their seats at the dais and take action to certify the election results, then the new Council will be sworn in and take their seats. She reminded the community that the annual Holiday Lights Parade and Tree Lighting Ceremony will take place Saturday evening at 5:30 p.m. Downtown. She announced that starting on Sunday, December 9<sup>th</sup>, the Morgan Hill Library will be open on Sundays between 1:00 p.m. and 5:00 p.m. She concluded by sharing that there will be a High Speed Rail update at the December 19<sup>th</sup> City Council meeting.

## **RECOGNITIONS**

### **Quarterly Teammate Recognition**

#### **New Hires**

Sergio Lopez - Police Officer  
Elysa Olivares, Human Resources Technician

#### **New Promotions**

Jake Hess, Fire Chief

#### **Retirements**

Troy Hoefling, Police Sergeant  
Derek Witmer, Fire Chief

### **2018 Peak Performance Award Recipients**

**Employee of the Year** - Shane Palsgrove

**Customer Service** - Tony Haro

**Challenge** - Inga Alonzo, Frank Alvarez

**Professional Growth** - Christie Thomas

**Innovation** - John Henry, Mark Rauscher, Pam van der Leeden

**Teamwork** - Eric Blomquist, Daniel Cardwell, John Amos, Rudy Medina, Shawn Lopez, Steve Pennington, Caitlin Souza, Elizabeth Bassett, Anna King, Lucy Steuber

**Get-Er Done!** - Anthony Eulo

**Highest of High Fives!** - Margarita Huertas-Balagso

**Community Whisperer** - John Amos

### **Service Year Recipients**

#### **35 Years**

Toni Maiquez, Public Safety Dispatcher

#### **30 Years**

John Henry, Engineering Technician  
Johnny Gonzales, Utility Worker  
Troy Hoefling, Police Sergeant

### **20 Years**

Teo Herrera, Utility Worker  
Anna King, Development Services Technician

### **15 Years**

Jorge Lopez, Custodian  
Chiquy Mejia, Recreation Coordinator

### **10 Years**

Carson Thomas, Police Sergeant  
Candice Abdurahman, Public Safety Dispatcher  
Lisa Cardenas, Executive Assistant to the Chief of Police  
Jennifer Ponce, Emergency Services Coordinator  
Scott Martin, Police Corporal  
Johnny Roberson, I.S. Technician  
Tom Neff, Utility Supervisor  
Tim Conlon, Utility Worker  
Michelle Bigelow, Council Services and Records Manager  
Sandra Diner, Office Assistant II

### **5 Years**

Kevin Nelson, Water Quality Specialist  
Santiago Fierro, Police Officer  
Jason Lorenzo, Multi Services Officer  
Fernando Del Moral, Police Officer  
Christopher Gridley, Police Corporal  
Todd Davis, Police Officer  
Erica Corona, Human Resources Technician  
Angie Gonzalez, Council Services Assistant

## **TEAMMATE RECOGNITION PRESENTATION**

### **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin had no report.

### **OTHER REPORTS**

None.

### **PRESENTATIONS**

YAC PRESENTATION- ASSET #41- POSITIVE CULTURAL IDENTITY

## **PUBLIC COMMENT**

The public comment was opened at 7:24 p.m.

Dick Oliver was called to speak.

There being no further requests to speak, the public comment was closed.

## **ADOPTION OF AGENDA**

**MOTION:**

Adopting the agenda as posted.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Caitlin Jachimowicz, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

## **CONSENT CALENDAR**

**MOTION:**

Approving consent calendar items 1, 3, 5, and 8.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

### **1. APPOINTMENT TO THE PARKS AND RECREATION COMMISSION**

Recommendation:

Appoint Neil Berman to serve on the Parks and Recreation Commission to fill a vacancy with a term ending April 1, 2022.

### **2. ITEM PULLED FOR DISCUSSION**

### **3. AWARD LANDSCAPE MAINTENANCE AGREEMENT FOR CITY FACILITIES AND ASSESSMENT DISTRICTS**

Recommendation:

1. Award a two-year contract to Brightview Landscape Services, Inc. in the amount of \$300,648 to service Group 2: City Facilities, Group 4: Landscape Assessment Districts, and extra services; and
2. Authorize the City Manager to execute and administer the Maintenance Service Agreement with Brightview Landscape Services and to extend the agreement for up to three, one-year additional terms.

### **4. ITEM PULLED FOR DISCUSSION**

### **5. ADOPT A RESOLUTION OF INTENT TO ESTABLISH A TOURISM BUSINESS IMPROVEMENT DISTRICT**

Recommendation:

1. Adopt resolution declaring the City's intention to establish the Morgan Hill Tourism Business Improvement District (MHTBID) to levy assessments within the District and setting a time and place for a public hearing;
2. Direct the City Clerk to mail written notice to the owners of all businesses proposed to be within the District; and
3. Appoint the Economic Development Director and the Public Services Director to the MHTBID Owners' Association Board.

**6. ITEM PULLED FOR DISCUSSION**

**7. ITEM PULLED FOR DISCUSSION**

**8. APPROVE THE NOVEMBER 7, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

**ITEMS PULLED FOR DISCUSSION**

**2. AWARD AQUATICS CENTER SLIDE REPAIR AND REFURBISHMENT**

Recommendation:

1. Adopt resolution amending the Fiscal Year 2018-19 adopted budget to appropriate an additional \$54,000 from the General Fund (010) to Building Maintenance Fund (740) for the Aquatics Center Slides Refurbishment Project;
2. Award contract to Teca Aquatics Innovations, Inc. in the amount of \$130,290; and Authorize the expenditure of contingency funds not to exceed \$13,029; and
3. Authorize the City Manager to execute and administer that certain construction contract with Teca Aquatics Innovations, Inc.

Program Administrator Anthony Eulo answered questions.

**MOTION:**

Approving the recommended actions.

<b>RESULT:</b>	<b>AWARDED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**4. APPROVE CONSULTANT AGREEMENT WITH CITYGATE ASSOCIATES, LLC., FOR FIRE STANDARDS OF COVERAGE (SOC) STUDY AND COMMUNITY RISK ASSESSMENT, AND REIMBURSEMENT AGREEMENTS WITH CITY OF GILROY AND SOUTH SANTA CLARA COUNTY FIRE DISTRICT**

Recommendation:

1. Approve and authorize the City Manager to review, negotiate, amend, and execute a consultant agreement with Citygate Associates, LLC for a Sub-Regional South County Standards of Coverage (SOC) and community risk assessment study in the amount of \$79,530;
2. Authorize the expenditure of contingency funds not to exceed \$3,970;



3. Adopt resolution amending the Fiscal Year (FY) 2018-19 adopted budget, to appropriate \$83,500 from the General Fund (010) for the study to be prepared by Citygate Associates, LLC; and
4. Approve and authorize the City Manager to review, amend, and execute reimbursement agreements with the City of Gilroy (\$31,520) and South Santa Clara County Fire District (\$24,735) for their share of the study, including any future amendments subject to change in scope, up to the available contingency amount of \$3,970.

Fire Chief Jake Hess and Division Chief Jim Crawford answered questions.

**MOTION:**

Approving the recommended actions.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**6. PILOT PROJECT TO REDUCE USE OF RODENTICIDES AT CITY FACILITIES**

Recommendation:

Direct staff to implement a rodenticide reduction pilot project and report on the project's findings and results at the June 5, 2019 City Council meeting.

Program Administrator Anthony Eulo presented the report.

The public comment was opened at 7:43 p.m. The following people were called to speak:

Joy Joyner

Kyra Pehrson

Doug Muirhead

There being no further requests to speak, the public comment was closed.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>DIRECTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**7. ADOPT ORDINANCE AMENDING CHAPTER 9.04 ("WEAPONS") OF TITLE 9 ("PUBLIC PEACE, MORALS AND WELFARE") OF THE MORGAN HILL MUNICIPAL CODE TO REQUIRE SAFE FIREARMS STORAGE, REQUIRE THE REPORTING OF FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY MAGAZINES**

Recommendation:

Waive the reading, adopt Ordinance No. 2289, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

The public comment was opened at 7:56 p.m. The following people were called to speak:

Leon Knyshov

Jeff Klopotic

Jonathan Hsu  
Dave Truslow  
G. Mitchell Kirk  
Anonymous

There being no further requests to speak, the public comment was closed.

City Attorney Donald Larkin answered questions.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>ADOPTED [3 TO 1]</b>
<b>MOVER:</b>	Caitlin Jachimowicz, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz
<b>NAYS:</b>	Spring
<b>ABSENT:</b>	Constantine

**OTHER BUSINESS**

A recess was called at 8:17 p.m.

The meeting reconvened at 8:24 p.m.

**9. PROVIDE DIRECTION REGARDING MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN ALTERNATIVES**

Recommendation:

1. Receive presentation on Monterey Corridor Block-Level Master Plan Alternatives; and
2. Direct staff to proceed with Monterey Corridor Block-Level Master Plan process.

Principal Planner John Baty and Development Services Director Jennifer Carman presented the report.

The public comment was opened at 8:51 p.m.

Dick Oliver was called to speak.

There being no further requests to speak, the public comment was closed.

Council provided direction to staff.

<b>RESULT:</b>	<b>NO ACTION TAKEN</b>
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**10. INTRODUCE ORDINANCE DELEGATING AUTHORITY TO CITY MANAGER TO APPOINT CITY CLERK**

Recommendation:

1. Waive the first and second reading of the ordinance delegating the appointment authority of the City Clerk position to the City Manager; and
2. Introduce the ordinance.  
OR
3. Direct staff to return with a job description and employment contract for the City Clerk position to report into the City Council.

City Manager Christina Turner presented the report.

The public comment was opened at 9:39 p.m.  
There being no requests to speak, the public comment was closed.

**MOTION:**

Waiving the first and second reading of the ordinance.

<b>RESULT:</b>	<b>WAIVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**MOTION:**

Introducing the ordinance.

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

## **PUBLIC HEARING**

### **11. INTRODUCE ORDINANCE REGULATING FIREARMS DEALERS**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance adding Chapter 5.68 titled "Firearms Dealers," to Title 5 (Business Licenses Generally) of the Morgan Hill Municipal code, to provide uniform regulations applicable to all firearm dealers in Morgan Hill.

City Attorney Donald Larkin presented the report.

The public hearing was opened at 9:53 p.m. The following people were called to speak:

Dave Truslow  
Trevor Bacolini  
Leon Knyshov  
G. Mitchell Kirk  
Anonymous  
Jeff Klopotic

There being no further requests to speak, the public hearing was closed.

**MOTION:**

Waiving the first and second reading of the ordinance.

<b>RESULT:</b>	<b>WAIVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**MOTION:**

Introducing the ordinance.

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Caitlin Jachimowicz
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**12. ZA2018-0006: HALF - TRUMARK: ZONING AMENDMENT TO AMEND THE ZONING MAP DESIGNATION FOR TWO PARCELS FROM R-2 3,500/PD TO RAL-3,500. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 728-30-003 AND -004, ARE LOCATED ON THE NORTHERLY SIDE OF HALF ROAD BETWEEN CONDIT ROAD AND MISSION VIEW DRIVE (LLAGAS LLC, OWNER)**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance approving zoning amendment; and
3. Introduce the ordinance.

Development Services Director Jennifer Carman presented the report.

The public hearing was opened at 10:32 p.m. The following people were called to speak:

Chris Davenport

Rick Kent

Harry Singla

Terry Williams

Ron Kumar

There being no further requests to speak, the public hearing was closed.

**MOTION:**

Waiving the first and second reading of the ordinance.

<b>RESULT:</b>	<b>WAIVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**MOTION:**

Introducing the ordinance

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**MOTION:**

Extending the meeting to 11:30 p.m.

<b>RESULT:</b>	<b>EXTENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Caitlin Jachimowicz, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Carr, Jachimowicz, Spring
<b>ABSENT:</b>	Constantine

**CLOSED SESSION**

City Attorney Donald Larkin announced the closed session items.

**OPPORTUNITY FOR PUBLIC COMMENT**

The public comment was opened at 10:56 p.m.

There being no requests to speak, the public comment was closed.

**ADJOURN TO CLOSED SESSION**

The meeting adjourned to closed session at 10:56 p.m.

**CONFERENCE WITH LABOR NEGOTIATOR:**

Authority:	Pursuant to Government Code Section 54957.6
City Negotiators	Christina Turner City Manager; Cindy Murphy Assistant City Manager for Administrative Services; Michelle Katsuyoshi Human Resources Director; Edward Kreisberg, Meyers Nave; Jesse Lad, Meyers Nave
Employee Organization:	Morgan Hill Police Officers Association AFSCME Local 101 Morgan Hill Community Service Officers Association

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Pursuant to Government Code Section 54956.9(d)(1)
Case Name:	O'Malley v. City of Morgan Hill
Case Number:	Santa Clara County Superior Court Case No: 16-CV-300450

## **RECONVENE**

The meeting reconvened at 11:21 p.m.

## **CLOSED SESSION ANNOUNCEMENT**

City Attorney Donald Larkin announced that the Council unanimously approved a settlement agreement in the amount of \$187,500.

## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

None.

## **ADJOURNMENT**

There being no further business, the meeting adjourned at 11:22 p.m.

## **MINUTES PREPARED BY:**

Michelle Bigelow, Deputy City Clerk

# **EXHIBIT F**



**Special - Regular Meeting Agenda**  
**City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, October 24, 2018 5:30 pm**

**Council Chamber**  
**17555 Peak Avenue, Morgan Hill, CA 95037**

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**SPECIAL/REGULAR MEETING**

*A special meeting of the City Council is called at 5:30 p.m. for the purpose of conducting a Joint City Council/Planning Commission Workshop.*

**SPECIAL MEETING**

**5:30 P.M.**

**CALL TO ORDER**

*(Mayor Tate)*

**ROLL CALL ATTENDANCE**

**DECLARATION OF POSTING AGENDA**

Per Government Code Section 54954.2  
*(Deputy City Clerk Bigelow)*

**WORKSHOP**



## **MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN JOINT CITY COUNCIL/PLANNING COMMISSION WORKSHOP**

Recommendation:

1. Continue presentation on the Monterey Corridor Block-Level Master Plan;
2. Discuss and provide feedback on draft frontage standards for future development along the Monterey Corridor; and
3. Discuss and provide feedback on the results and recommendations of the block-level commercial analysis.

## **REGULAR MEETING**

**7:00 P.M.**

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Jachimowicz

## **CITY MANAGER'S REPORT**

City Manager Christina Turner

## **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin

## **OTHER REPORTS**

## **PROCLAMATION**

Proclaiming November 2018 as Morgan Hill Community Philanthropy Month  
*Pamela Meador*

## **PRESENTATION**

Morgan Hill Downtown Association Board Presentation of Contribution Check  
for the Downtown Twinkle Lights

## **PUBLIC COMMENT**

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

## **ADOPTION OF AGENDA**

## **CONSENT CALENDAR**

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. **ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT DA2017-0008: LLAGAS-STROLATA (SILVA) FOR A 3-UNIT RESIDENTIAL DEVELOPMENT WITH REMAINDER LOT ON A 4.48-ACRE SITE LOCATED AT 1110 LLAGAS AVENUE (APN 773-32-013)**

Recommendation:

Waive the reading, adopt Ordinance No. 2286, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

2. **ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR A 389 UNIT APARTMENT PROJECT ON APPROXIMATELY 19.5 ACRES AT JARVIS DR. AND MONTEREY ROAD**

Recommendation:

Waive the reading, adopt Ordinance No. 2287, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

3. **ADOPT ORDINANCE ADDING NEW CHAPTER 14.08 "IN-LIEU HOUSING FEE" TO TITLE 14 (HOUSING) OF THE MORGAN HILL MUNICIPAL CODE, ESTABLISHING IN-LIEU FEES FOR NEW RESIDENTIAL DEVELOPMENT OWNERSHIP AND RENTAL PROJECTS WITHIN THE CITY AND ADDING CHAPTER 14.12 "BELOW MARKET RATE PROGRAM" WHICH INCORPORATES A NEW BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A NEW BELOW MARKET RATE OWNERSHIP PROGRAM APPLICATION GUIDE, AND REPEALING CHAPTERS 15.22 "AFFORDABLE HOUSING FEE" AND 15.23 "BELOW MARKET RATE PROGRAM"**

Recommendation:

Waive the reading, adopt Ordinance No. 2288, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **PUBLIC HEARING**

**4. ADOPT AN ORDINANCE REQUIRING SAFE STORAGE OF FIREARMS, REPORTING THEFT OR LOSS OF FIREARMS, AND PROHIBITING POSSESSION OF LARGE CAPACITY MAGAZINES**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance amending Chapter 9.04 titled "Weapons," to require the safe storage of firearms when not attended, to require the reporting of the theft or loss of firearms, and to prohibit the possession of large capacity magazines.

Estimated Time: 75 Minutes

**5. ZA2018-0005: CITY OF MORGAN HILL - AN AMENDMENT TO TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance; and
3. Introduce Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance.

Estimated Time: 30 Minutes

**FUTURE COUNCIL INITIATED AGENDA ITEMS**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**CLOSED SESSION**

**OPPORTUNITY FOR PUBLIC COMMENT**

**ADJOURN TO CLOSED SESSION**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Authority: Government Code 54957(b)(1)

Title: City Manager

**CLOSED SESSION SUPPLEMENT 1**

**CLOSED SESSION SUPPLEMENT 2**

**RECONVENE**

**CLOSED SESSION ANNOUNCEMENT**

**ADJOURNMENT**

## NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

## PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov).

## AMERICANS WITH DISABILITIES ACT (ADA)

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov). Requests must be made as early as possible and at least two-full business days before the start of the meeting.*



## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: October 24, 2018**

PREPARED BY: Donald Larkin, City Attorney  
APPROVED BY: City Manager

## **ADOPT AN ORDINANCE REQUIRING SAFE STORAGE OF FIREARMS, REPORTING THEFT OR LOSS OF FIREARMS, AND PROHIBITING POSSESSION OF LARGE CAPACITY MAGAZINES**

### **RECOMMENDATION(S)**

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance amending Chapter 9.04 titled "Weapons," to require the safe storage of firearms when not attended, to require the reporting of the theft or loss of firearms, and to prohibit the possession of large capacity magazines.

### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

#### **Ongoing Priorities**

Enhancing Public Safety  
Supporting Our Youth  
Seniors  
and Entire Community

### **POLICY CONSIDERATIONS:**

1. Should Morgan Hill residents be required to report the theft or loss of a firearm to the Morgan Hill Police Department?
2. Should the City adopt an ordinance requiring the safe storage of firearms when they are not in use?
3. Should the City prohibit the possession of large capacity magazines?
4. Should the City explore opportunities to sponsor gun safety programs or classes?
5. Should the existing City ordinance be amended to remove or relax restrictions on the discharge of weapons in Morgan Hill?

### **REPORT NARRATIVE:**

#### **Background:**

At its May 16, 2018 meeting, the City Council directed the City Attorney to prepare ordinances for City Council consideration that:

1. Require Morgan Hill residents to report the theft or loss of a firearm to the Morgan Hill Police Department;
2. Require the safe storage of firearms when they are not in use;

3. Prohibit the possession of large capacity magazines; and/or
4. Require a City permit to conduct retail firearm and/or ammunition sales.

In addition, the Council requested the formation of an ad hoc Council subcommittee, consisting of Council Members Constantine and Spring, to hear the concerns and suggestions of the community, and to consider those concerns and suggestions in crafting policy.

The ad hoc subcommittee met one time on May 8, 2018. About 15 community members attended the meeting. Most of the attendees were gun owners who were opposed to the proposed changes to the Municipal Code. Several people raised concerns about the way the Sunnyvale ordinance is being enforced, and some of the potential implications of the safe-storage ordinance. Specifically, attendees felt that a requirement that firearms be safely stored “except when carried on his or her person or in his or her immediate possession” would encourage gun owners to carry their firearms with them when answering the door or in other circumstances in which carrying a firearm may be unnecessarily dangerous. Changes have been made to the draft ordinance based on these comments.

As an alternative to the proposed ordinance changes, several attendees advocated for more firearms education in the community, and suggested programs geared towards educating youth about firearms safety.

Several community members spoke in favor of the proposed ordinance.

In addition to the ad hoc subcommittee meeting, the City held a well-advertised community forum on September 25, 2018. The community forum was attended by several City teammates, including Council Member Constantine, but only five community members attended. Two of the community members advocated for stronger measures to prevent gun violence. One community member expressed reservations about potential restrictions on gun ownership but did not have specific comments on the proposed ordinance.

Following the community meeting, a redline draft ordinance was made available on the City website. We received numerous comments on the ordinance. However, the overwhelming majority of comments were about the City’s existing prohibition on the discharge of weapons within City limits. While not part of the current proposal, we will address the comments on the existing ordinance below. In addition, there were a few suggestions for improving the proposed draft that we have incorporated. Attachment 7 to this report is a compilation of written correspondence received prior to publication of the report.

Attachment 1 to this report is the revised proposed ordinance that we recommend for adoption.

### Reporting theft or loss of firearms:

In 2011, the Association of Bay Area Governments (ABAG), issued a report titled “A High Price to Pay: The Economic and Social Costs of Youth Gun Violence in San Mateo County.” (Attachment 2). The Report outlines several suggestions for improving local firearms regulations. Based on the Report, the ABAG Executive Board approved model ordinances and took action to encourage all member jurisdictions, including the City of Morgan Hill, to adopt the model ordinances. One of the model ordinances recommended by ABAG is a “Model Ordinance Requiring Reporting of Lost or Stolen Firearms. (Attachment 3 is a link to the model ordinances).

Laws requiring gun owners to report the loss or theft of a firearm serve several purposes. Reasons for requiring theft reporting include:

- When a crime gun is traced by law enforcement to the last purchaser of record, the owner may falsely claim that the gun was lost or stolen to hide his or her involvement in the crime or in gun trafficking. Reporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it.
- When a person who legally owned a gun becomes prohibited from gun ownership, it is important that law enforcement remove the firearm from his or her possession. Reporting laws help disarm prohibited persons by deterring them from falsely claiming that their firearms were lost or stolen.
- Reporting laws protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene and make it easier for law enforcement to locate a lost or stolen firearm and return it to its lawful owner.
- The danger that lost or stolen firearms pose to public safety requires a heightened level of accountability on the part of individuals who choose to own firearms. Reporting laws make gun owners more accountable for their weapons.

Under California law, “every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.” Pen. Code, § 25250

The proposed ordinance both clarifies and expands on the Penal Code requirements. Under the Penal Code a person must report the theft or loss of a firearm to “a local law enforcement agency.” There are multiple local law enforcement agencies that operate in Morgan Hill, so we believe it is important to clarify that the appropriate local law enforcement agency in Morgan Hill is the Morgan Hill Police Department.

The proposed ordinance also requires the reporting to occur within 48 hours of discovery of the loss or theft, rather than the five days provided in California law. Earlier notification of lost or stolen firearms allows police to more easily identify stolen weapons during the course of an investigation. The 48-hour reporting period also provides an



opportunity for early identification and may reduce the chance of lost or stolen firearms being used in additional crimes. Other local ordinances, such as San Jose's, require reporting within 24 hours.

The proposed ordinance follows ABAG's recommendations. However, rather than copying the language of the model ordinance, we based our proposal on the ordinance adopted by the City of Sunnyvale. Sunnyvale's language has been in place for several years without any significant issues, and we believe it is easier to understand and enforce than the model ordinance language.

#### Safe Storage of Firearms:

The provisions of the proposed ordinance requiring the safe storage of firearms are intended both to discourage the theft of firearms and to prevent accidents and suicides.

According to a 2018 report in the *Journal of Urban Health*, more than half a million firearms are lost or stolen from private residences each year. (See Azrael, D., Cohen, J., Salhi, C. et al J Urban Health (2018) 95: 295 <https://doi.org/10.1007/s11524-018-0261-7>). Safe storage laws help prevent theft of firearms left unattended in people's homes.

In addition, safe storage laws can help prevent accidental injury and suicide. The office of County Supervisor Cindy Chavez has put together a white-paper that compiles available research regarding suicide by firearms in Santa Clara County. (Attachment 4). According to the available research:

- Suicide accounts for more than half of all firearm deaths in the US (61% in 2014) and in California. Firearm suicide rates have been consistently higher than firearm homicide rates since before the 1990s.
- In Santa Clara County, most suicides are by adult men. Men are more likely to use firearms as the means for suicide. Firearm usage is lethal 95% of the time.
- Firearms are the second most commonly used means for suicide in Santa Clara County (after asphyxiation), and the most common means used by adults over 45.
- At least one-third of handguns are stored, loaded, and unlocked, and most kids know where guns are kept in their house—even if parents think otherwise.
- A National Violent Injury Statistics System (NVISS) investigation studied firearm suicides among youths ages 17 and under occurring over a two-year period in four states and two counties found that 82% used a firearm belonging to a family member, usually a parent. When storage status was noted, about two-thirds of the firearms had been stored unlocked.

Project ChildSafe, a program of the National Shooting Sports Foundation, identifies the safe storage of firearms as the number one way to help prevent firearms accidents. Project ChildSafe's recommendations for safely storing firearms can be found on their [website](#).

In drafting our proposed ordinance, we looked at ordinances recently enacted in Sunnyvale and in San Jose. Sunnyvale's ordinance requires firearms to be locked unless they are carried on the owner's person, or within his or her immediate control and possession. San Jose's ordinance requires firearms to be locked up when the owner is away from home.

In our community discussions, some residents expressed concern that Sunnyvale's ordinance is overly restrictive and might encourage people to carry their weapons more frequently, leading to more accidents. San Jose's ordinance is less restrictive but may not be as effective in curbing access to firearms by minors and others who should not have access to firearms.

To ensure effectiveness, we recommend following Sunnyvale's model. However, rather than requiring safe storage when a firearm is not within the owner's immediate control and possession, the proposed draft requires safe storage any time the firearm is unattended, which is slightly less restrictive and would allow a gun owner to leave a firearm unlocked while he or she is in the general vicinity.

In addition to the concerns addressed above, at least one member of the community expressed a concern that the ordinance uses the state definition of the term "firearm," which includes antique and antique-reproduction firearms. According to the resident who raised this issue, antique firearms are unlikely to be used in a crime or suicide attempt and cannot be accidentally discharged. If Council shares this concern, the definition of the term "firearm", for purposes of the safe storage provisions, could be amended to exempt certain antique firearms. Crafting a limited exemption applicable to the proposed ordinance would require additional research. If so directed, we would bring back exemption language at a future meeting.

#### Large Capacity Magazines:

The ability of an automatic or semi-automatic firearm to fire multiple bullets without reloading is directly related to the capacity of the firearm's feeding device or "magazine." Inside the magazine, a spring forces a cartridge (ammunition, generally containing a bullet, a propellant, and an ignition device) into position to be fed into the weapon's chamber.

Magazines with a capacity of more than 10 rounds of ammunition are generally considered to be "large capacity" magazines, although the statutory definitions vary. In some cases, large capacity magazines can hold up to 100 rounds of ammunition.

Large capacity magazines are frequently used in mass shootings, including those in San Bernardino, CA; Sutherland Springs, TX; Las Vegas, NV; Orlando, FL; Sandy Hook, CT; and Aurora, CO. When assault weapons and high capacity magazines are used in a mass shooting, the number of people shot goes up by 135% and the number of people killed goes up by 57%. (See attachment 5.)

Since January 1, 2000, Penal Code section 12020(a)(2) prohibits the manufacture,

importation into the state, keeping for sale, offering, or exposing for sale, giving, or lending large capacity magazines. However, California law does not prohibit the *possession* of large capacity magazines. Anyone who legally purchased a large capacity magazine in California before January 1, 2000 is allowed to keep and use that magazine.

Since 2000, several California cities, including Sunnyvale, Richmond, San Francisco, and Los Angeles have enacted local ordinances prohibiting the possession of large capacity magazines within city limits. Sunnyvale's ban on large capacity magazines survived legal challenge. (See the case of *Fyock v. Sunnyvale*, (2015) 779 F.3d 991).

In 2016, California voters approved a statewide ban on large capacity magazines (Proposition 63). However, enforcement of the ban is currently on hold following a preliminary injunction by the United States District Court for the Southern District of California. (See *Duncan v. Becerra* (2017) 265 F.Supp.3d 1106). In distinguishing the Sunnyvale ban from the statewide ban, the Southern District Court relied on a number of factors, including Sunnyvale's low crime rate, the increased risk of a stray bullet penetrating walls or wounding bystanders, and the ability of law enforcement to quickly respond to an emergency. The Court compared these factors to other areas, where the population is far more remote and police response times are likely to be much longer and the risk of a bullet striking a bystander or penetrating a neighboring structure is remote.

Like Sunnyvale, Morgan Hill has a low rate of violent crime and the Morgan Hill Police Department is able to quickly respond to any location within the City. Further, while Morgan Hill has more open space than Sunnyvale, Morgan Hill is an urban community with population densities that are high compared to remote counties.

Of the changes in the proposed ordinance, the ban on large capacity magazines has generated the most concern. One attendee at the ad hoc subcommittee meeting raised a concern that requiring him to surrender his legally purchased magazines is an illegal taking. Others expressed a general concern that they would go from being law abiding citizens to criminals overnight. While we do not agree that the proposed ordinance would enact a taking, the concerns expressed by responsible gun owners are valid.

One resident recommended changing subsection 9.04.050(C)(8) of the draft ordinance to exempt all large capacity magazines that were included with a firearm that was purchased prior to January 1, 2000, and the person possesses the large capacity magazine solely for use with that firearm. If Council agrees with this change, that recommendation can be made as part of a motion approving the ordinance.

#### Proposed Deletions:

The proposed ordinance would delete some language in the section numbered 9.04.020. The reason for removing this language is that the ordinance requirements are entirely duplicative of state law as it existed when the ordinance was adopted in 1995. State law has since been strengthened to impose more stringent requirements for the

safe storage of firearms by retailers, so those ordinance provisions are no longer necessary or enforceable.

#### Permit Requirements for Retail Firearm and/or Ammunition Sales:

This proposed ordinance does not include permit requirements for retail firearm or ammunition sales. While the issues and concerns of retailers may overlap with those of firearms owners, most of the concerns expressed by the public are related to the three proposals contained in the current draft. Permit requirements for retailers also require a different legal and policy analysis. We plan to work separately with our current firearms retailers to bring back a proposed ordinance next month.

#### Existing City Prohibitions on the Discharge of Firearms and other Weapons:

As noted above, the overwhelming majority of e-mail comments the Council has received relate to the City's existing code. Since 1970, the City of Morgan Hill has required a permit to discharge weapons within the City limits. (See attachment 6).

Morgan Hill's requirements are not unique. Jurisdictions around the country have adopted similar permit requirements, including fourteen of the fifteen cities and towns in Santa Clara County. While two of the city ordinances in Santa Clara County are specific to projectiles shot from guns, twelve regulate the discharge of "missiles."

Many of the commenters expressed concern that the ordinance requires a permit for the use of innocuous items like children's toys and construction equipment. This interpretation is based on a very broad definition of the term "missile," which is not supported by case law or the context of the code provisions.

The term "missile" is used by many jurisdictions, including the State of California, to refer specifically to projectiles that are used as weapons. While there are very few court cases that define the term missile, in a recent decision, the Ninth Circuit Court of Appeals discussed the meaning of the term as used in statute:

"Dictionaries generally provide two separate definitions of missile: one broad and generic definition including all things thrown as weapons and one definition that aligns with our modern usage of the term missile to describe a sophisticated piece of weaponry . . . For example, the Oxford Dictionary defines a missile as: (1) "an object which is forcibly propelled at a target, either by hand or from a mechanical weapon," or (2) "a weapon that is self-propelled or directed by remote control, carrying conventional or nuclear explosive."

U.S. v. Flores (9th Cir. 2013) 729 F.3d 910, 914–915. Both of these definitions define the term missile as a form of weapon. Further, in the context of a chapter titled "Weapons," it is clear that the term missile refers to projectiles that are or are projected from weapons.

The term “weapon” is commonly understood to refer to a thing that is designed or used to cause bodily harm or damage. As such, the ordinance only restricts the use of instruments that project objects that are designed or used to cause bodily harm. It would not apply to children’s toys or other innocuous objects.

#### **COMMUNITY ENGAGEMENT: Consult**

As discussed above, City staff engaged in extensive outreach and took community comments into consideration when drafting the proposed ordinance.

#### **ALTERNATIVE ACTIONS:**

The Council could direct the City Attorney to return with a revised ordinance that includes only some of the proposed additions.

The Council could direct the City Attorney to prepare an ordinance amending the existing prohibition on the discharge of weapons without a permit.

#### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

On March 7, 2018, the City Council adopted a resolution condemning recent mass shootings and advocating for local, state, and federal measures to reduce gun violence.

On March 19, 2018, the City Council directed the City Attorney to draft ordinances requiring gun owners to report the loss or theft of a firearm; requiring the safe storage of firearms; prohibiting the possession of large capacity magazines; and requiring a local permit to conduct retail firearm and/or ammunition sales.

On May 16, 2018, the City Attorney provided an update to Council on the proposed ordinances. At that meeting, Staff was directed to conduct further outreach to the community, including a meeting with an ad hoc committee of the Council. Those community outreach efforts are discussed above.

#### **FISCAL AND RESOURCE IMPACT:**

Some staff time will be required for additional outreach and education. All staff time, including enforcement, will be incorporated into existing work-plans.

#### **CEQA (California Environmental Quality Act):**

The proposals set forth in this report are exempt from CEQA under Guideline §15061(b) because the actions as proposed will have no significant effect on the environment.

#### **LINKS/ATTACHMENTS:**

1. Firearms Ordinance
2. Youth Gun Violence Report 2011
3. ABAG Model Ordinances (weblink)
4. FINAL Firearm Suicides Paper\_Sup. Chavez Aug18
5. Article: How High is Our Capacity for Carnage (weblink)
6. Ordinance No. 290
7. Public Comment on Gun Violence Ordinance
8. 04 Presentation

- 9. 04 Supplement 1
- 10.04 Supplement 2
- 11.04 Supplement 3
- 12.04 Supplement 4

**ORDINANCE NO. \_\_\_\_\_, NEW SERIES**

**AN ORDINANCE OF THE CITY OF MORGAN HILL  
AMENDING CHAPTER 9.04 (“WEAPONS”) OF TITLE 9  
 (“PUBLIC PEACE, MORALS AND WELFARE”) OF THE  
MORGAN HILL MUNICIPAL CODE TO REQUIRE SAFE  
FIREARMS STORAGE, REQUIRE THE REPORTING OF  
FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY  
MAGAZINES**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA DOES  
ORDAIN AND ENACT AS FOLLOWS:**

**SECTION 1:** Chapter 9.04 (“Weapons”) of Title 9 (“Public Peace, Morals and Welfare”) is hereby amended to read as follows:

**“9.04.010 - Discharge—Permit required—Fee.**

A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.

B. Subject to review by and as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity of such permit, which must be, in his judgment, necessary for the protection of the applicant or his property, or in the furtherance of the public welfare, and which necessity cannot be reasonably abated by other means.

C. Applicants for such permit shall provide the following:

1. An application in writing which states the purpose of such permit, the nature of the problem to be abated which necessitates the protection of the applicant, his property or the furtherance of the public welfare, and lists all other means which have been unsuccessfully employed to abate the problem;
2. Proof of liability insurance in the amount of one million dollars per occurrence, obtained by the applicant and naming the city as additional insured, in a form and with companies approved by the city;
3. A certificate of agreement holding the city harmless for any action by applicant under this chapter, in a form prescribed by the city.



D. Upon approval, such permit may be issued upon payment of a fee of twenty-five dollars and shall be upon conditions and limitations and for such a length of time as the chief of police may determine.

**9.04.020 ~~Storage of firearms by Licensed dealers—Posting of regulations.~~**

A. ~~Pursuant to California Penal Code Section 12071(b)(14), any time a licensed dealer of firearms is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:~~

- ~~1. Store the firearm in a secure facility that is part of, or that constitutes, the licensee's business premises;~~
- ~~2. Secure the firearm 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 firearms from the premises;~~
- ~~3. Store the firearm in a locked fireproof safe or vault in the licensee's business premises.~~

B. ~~Subsection A of this section shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:~~

- ~~1. The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.~~
- ~~2. The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.~~

C. ~~Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of subsection A of this section if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.~~

D. ~~As used in this section, a "secure facility" means a building that meets all of the following specifications:~~

- ~~1. All perimeter doorways shall meet one of the following:~~

~~a. A windowless steel security door equipped with a deadbolt and a doorknob lock;~~

~~b. A windowed metal door that is equipped with a deadbolt 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;~~

~~c. A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.~~

~~2. All windows are covered with steel bars.~~

~~3. Heating, ventilating, air conditioning, and service openings are secured with steel bars, metal grating or an alarm system.~~

~~4. Any metal grates have spaces no larger than six inches wide measured in any direction.~~

~~5. Any metal screens have spaces no larger than six inches wide measured in any direction.~~

~~6. All steel bars shall be no further than six inches apart.~~

~~E. As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.~~

~~F. Any person or business establishment engaged in the business of offering for sale any instrument or device described in [Section 9.04.010](#) of this chapter shall have posted in a conspicuous place in the place of sale, a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device.~~

#### **9.04.030. Duty to report theft or loss of firearms.**

*Any person who owns or possesses a firearm (as defined in [Penal Code](#) Section 16520 or as amended) shall report the theft or loss of the firearm to the Morgan Hill Police Department within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the city of Morgan Hill; or (2) the theft or loss of the firearm occurs in the city of Morgan Hill.*

#### **9.04.040. Safe storage of firearms.**

*No person shall leave a firearm (as defined in [Penal Code](#) Section 16520 or as amended) unattended in any residence owned or controlled by that person unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.*

**9.04.050. Possession of large-capacity ammunition magazines prohibited.**

*A. No person may possess a large-capacity magazine in the city of Morgan Hill whether assembled or disassembled. For purposes of this section, "large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:*

- 1. A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or*
- 2. A .22 caliber tubular ammunition feeding device; or*
- 3. A tubular magazine that is contained in a lever-action firearm.*

*B. Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:*

- 1. Remove the large-capacity magazine from the city of Morgan Hill; or*
- 2. Surrender the large-capacity magazine to the Morgan Hill Police Department for destruction; or*
- 3. Lawfully sell or transfer the large-capacity magazine in accordance with [Penal Code](#) Section 12020.*

*C. This section shall not apply to the following:*

- 1. Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;*
- 2. Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;*
- 3. A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;*
- 4. Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of*

*his or her employment for purposes that pertain to the entity's armored vehicle business;*

*5. Any person who has been issued a license or permit by the California Department of Justice pursuant to [Penal Code](#) Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large-capacity magazine is in accordance with that license or permit;*

*6. A licensed gunsmith for purposes of maintenance, repair or modification of the large-capacity magazine;*

*7. Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;*

*8. Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large-capacity magazine solely for use with that firearm.*

*9. Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California [Penal Code](#).*

#### **~~9.04.030~~ 9.04.060- Confiscation—Authority—Conditions.**

Any instrument, device or article used or possessed in violation of the provisions of this chapter is declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and turned over to the chief of police under the conditions set forth in this section. If no complaint for violation of this chapter is filed within seventy-two hours of the taking, the instrument or device shall be returned to the person from whom it was taken. If a complaint for violation of this chapter is filed within seventy-two hours, the chief of police may return it to the person from whose possession it was taken upon such conditions as he deems desirable for the public welfare. If the person from whom it was taken is not convicted of a violation of this chapter, then the device or instrument shall be returned to him without any conditions. If there is a conviction and sixty days have expired since the date of conviction, the same may be destroyed by the chief of police or returned to the person from whom it was taken upon such conditions as the chief deems desirable for the public welfare.

#### **~~9.04.040~~ 9.04.070- Violation.**

It is unlawful for any person to violate or cause or permit the violation of the provisions of any section of this chapter.

**SECTION 2.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 3.** Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its passage and adoption. The City Clerk is hereby directed to publish in full or summary this ordinance pursuant to §36933 of the Government Code in a newspaper of general circulation in the City of Morgan Hill.

**THE FOREGOING ORDINANCE WAS INTRODUCED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 17<sup>TH</sup> DAY OF OCTOBER 2018 AND WAS FINALLY ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 24<sup>TH</sup> DAY OF OCTOBER 2018 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:**

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**APPROVED:**

\_\_\_\_\_  
**STEVE TATE, Mayor**

**ATTEST:**

**DATE:**

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

Attachment: Firearms Ordinance (1993 : Gun Violence Ordinance)

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 24<sup>th</sup> day of October 2018.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

Attachment: Firearms Ordinance (1993 : Gun Violence Ordinance)





# A HIGH PRICE TO PAY: THE ECONOMIC AND SOCIAL COSTS OF YOUTH GUN VIOLENCE IN SAN MATEO COUNTY

SEPTEMBER 2011



Attachment: Youth Gun Violence Report 2011 (1993 : Gun Violence Ordinance)







## INTRODUCTION FROM SUPERVISOR ROSE JACOBS GIBSON

Dear Friends:

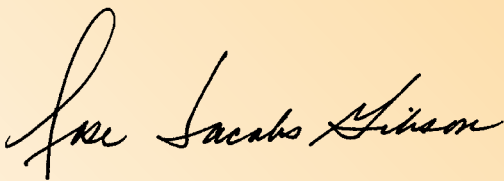
Safe streets and parks, schools free of violence, and communities where our children prosper are goals we all share. Yet each year, more than 20,000 children and young adults in the United States are killed or injured by guns in their own neighborhoods. Here in the Bay Area, youth firearm violence, often perpetrated by gang members, is on the rise, threatening the safety and security we all deserve. From the physical, economic, and social costs for the community to the psychological effects experienced by children and their families, firearm violence touches every segment of our society.

As a member of the San Mateo County Board of Supervisors, I have worked closely with law enforcement and community leaders to improve the safety of our residents through the establishment of programs like Operation Ceasefire and the East Palo Alto Crime Reduction Task Force. During my tenure as Association of Bay Area Government's (ABAG) President, we established a Youth Gun Violence Task Force charged with developing common sense approaches to keep guns out of the hands of young people and to curb youth firearm violence. During my twenty years in public service, I have come to understand that addressing youth gun violence through law enforcement efforts and community-driven prevention programs is the only way to ensure that all children in our community, regardless of their race or socio-economic background, have the opportunity to reach their full potential.

In 2010, the Silicon Valley Community Foundation provided funding to ABAG's Youth Gun Violence Task Force to conduct a youth firearm violence research project. This publication is the outcome of the concerted efforts of many government agencies, community-based organizations, and my office. I hope you find it compelling and that it inspires you to work with me to enhance our efforts to curb youth firearm violence locally and in the greater Bay Area.

My goal continues to be turning this eloquent sentiment recently expressed by a parent in one of our focus groups into reality: "How beautiful it would be, if instead of seeing a wall of graffiti, we saw a young person changed. Look, he's studying now, or going to church, or working. How great that would be..."

Sincerely,



Rose Jacobs Gibson  
Supervisor  
San Mateo County Board of Supervisors

San Mateo County governments and communities are committed to reducing and preventing youth firearm violence.<sup>1, 2, 3</sup> In an effort to measure the true human and financial impact of youth firearm violence in San Mateo County, the county has analyzed crime, health, and cost data. With the help of community partners, the county also conducted qualitative interviews, focus groups, and surveys of residents and law enforcement in communities with pronounced rates of youth firearm violence, which include Daly City, East Palo Alto, Redwood City, and San Mateo. (See *Appendix for detailed methodology*.) This report summarizes this analysis, providing a reference for policymakers and service providers, as well as a benchmark that may be used to assess the effectiveness of future prevention efforts. The most compelling findings from our research are as follows:

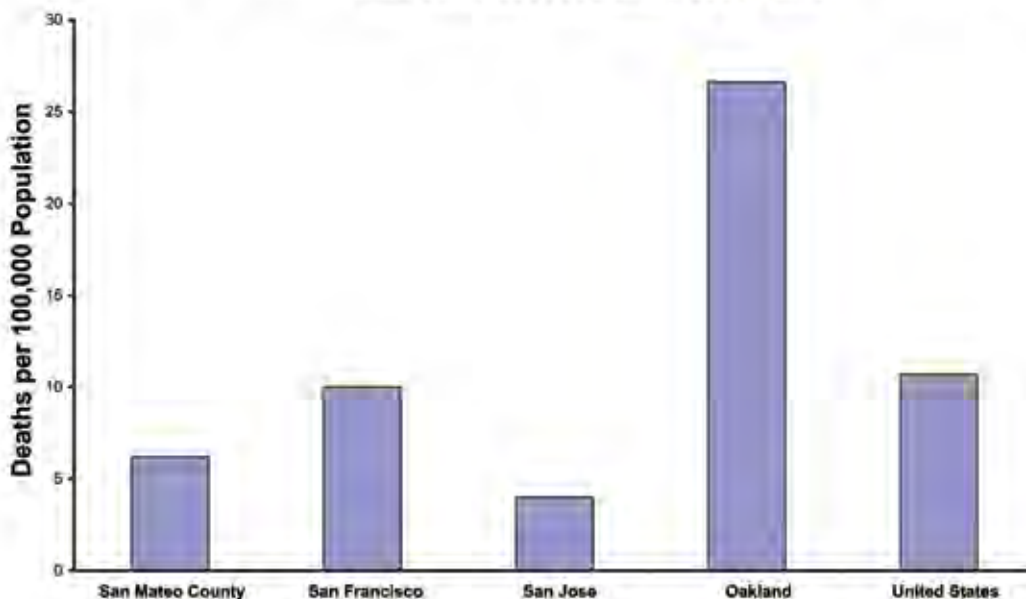
- The firearm violence mortality rate in San Mateo County is 42 percent lower than the United States, 39 percent lower than neighboring San Francisco, but 55 percent higher than San Jose.
- African American males aged 15 to 24 years are up to 18 times more likely than the overall county population and 3.5 times more likely than other San Mateo County youth to be shot and killed. The rate of non-fatal injuries among Latinos aged 15 to 24 years is 14 percent higher than that of other San Mateo County youth.
- The cities of East Palo Alto, Daly City, South San Francisco, and Redwood City comprise 38 percent of the total San Mateo County population, but disproportionately account for 57 percent of non-fatal firearm injuries and 74 percent of fatal firearm injuries.

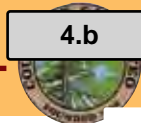
- Nonfatal and fatal injuries of San Mateo County youth from 2005-2009 will cost society an estimated \$234 million in medical care, criminal proceedings, future lost wages, disability benefits, and lost quality of life
- Eighty-one percent of adults and 56 percent of youth incarcerated\* for firearm crime in San Mateo County had been previously arrested.
- Nine out of 18 (50 percent) juveniles incarcerated\* and 31 of 75 (41 percent) adults incarcerated\* for firearm crime are gang-affiliated.
- The County Gang Intelligence Unit reports that gangs actively recruit disadvantaged San Mateo County youth, as young as 11 years of age, in schools and afterschool programs.
- San Mateo County local governments spend an estimated \$57,000-\$856,000 per crime—depending on crime severity—investigating, prosecuting, defending, punishing, and preventing youth firearm crime.

\*These figures are based on the jail and juvenile hall population for a single day in 2011. It is conceivable that these figures vary considering the transient nature of the jail population.

**Countywide statistics do not tell the whole story about youth firearm crime and violence.** The firearm violence mortality rate in San Mateo County is 6.2 deaths per 100,000 residents per year, 42 percent lower than the United States, 39 percent lower than San Francisco, but 55 percent higher than San Jose (*Figure 1*).

**Figure 1: Rate of Violent Firearm Mortality in San Mateo County, the United States and Other Bay Area Cities 2005 - 2009**

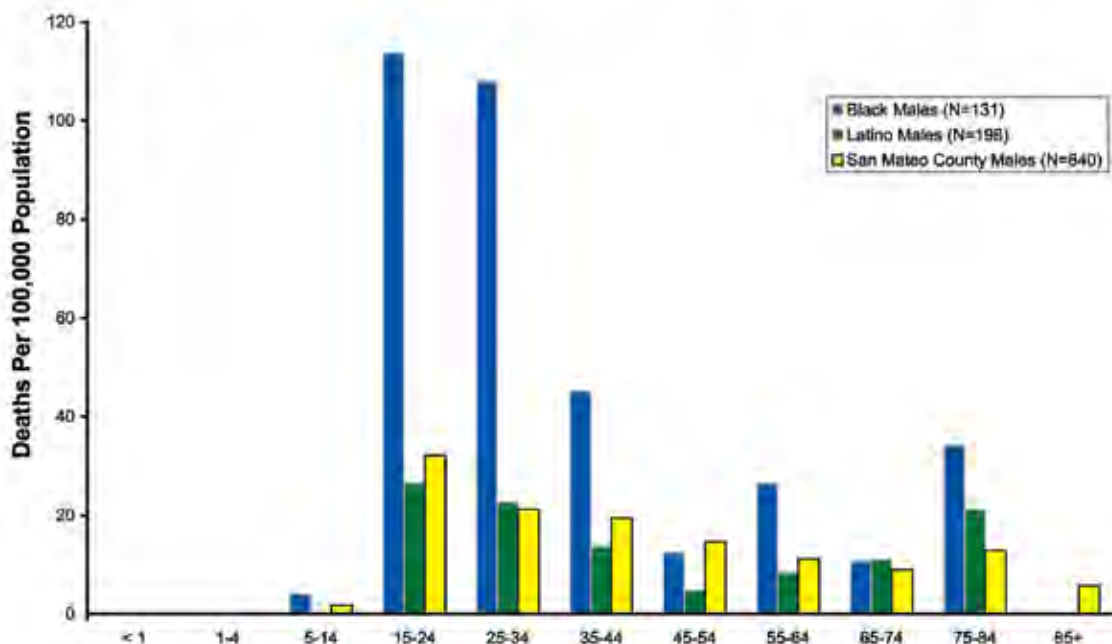




However, the countywide statistic masks the fact that certain communities and demographic groups within the county suffer a disproportionate impact from firearm crime and violence. For example, young African American males aged 15 to 24 years

are up to 18 times more likely to be shot and killed than the overall county population and up to 3.5 times more likely than other San Mateo County youth to be shot and killed (Figure 2).

**Figure 2: Mortality Due to Firearms Among Black and Latino Males**  
Cumulative Unadjusted Data, San Mateo County 1990 - 2009 (N = 329)



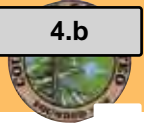
Firearm violence in San Mateo County is concentrated in the four cities of East Palo Alto, Daly City, Redwood City, and South San Francisco. Combined, these cities account for 74 percent

of fatal injuries and 57 percent of non-fatal firearm injuries, but only 38 percent of the total San Mateo County population (Table 1).

**Table 1: Percentage of Fatal and Non-Fatal Firearm Injury and Mortality and Total San Mateo County Population by City 2005-2009**

City	Percent of SMC Firearm Homicides	Percent of SMC Non-Fatal Firearm Injuries	Percent of SMC Population	Ratio of Percent of Homicides to Percent of SMC Population
Daly City	21.2%	6.7%	14.2%	1.5
East Palo Alto	25.8%	21.0 %	4.7%	5.5
Redwood City	15.2%	18.1 %	10.4%	1.5
South San Francisco	12.1%	11.0%	8.7%	1.4
All other SMC cities	25.8%	43.2%	62.0%	0.4





**Incarceration and recidivism for firearm crime is also high and concentrated in select communities and demographics.**

A snapshot of the 75 adults held at the county's correctional facilities for any firearm crime (ranging from possession to homicide) on a single day in 2011 reveals that 45 percent were Latino, 28 percent were African American, and 96 percent were male. Of the 18 inmates held at the juvenile facility for firearm crime on a single day in 2011, 67 percent were Latino, 22 percent were African American, and 94 percent were male. Both adults and youth charged with firearm crimes had a high recidivism rate; 81 percent of incarcerated adults had been arrested before, as compared with 56 percent for youth. Seventy-eight percent of the 18 incarcerated juveniles were from the three communities of East Palo Alto, San Mateo, and the North Fair Oaks neighborhood of Redwood City. While the City of San Mateo has relatively low rates of fatal and non-fatal firearm injuries, it has high rates of incarceration for juveniles engaging in firearm crime.

**Members of communities with pronounced rates of youth firearm violence live in an environment of fear, distrust, and diminished opportunities.**

Youth firearm violence was perceived to occur in the context of a community environment that is unstable, unpredictable, and chaotic. The characteristics of an unsafe community that respondents mentioned included economic deprivation, vandalism and graffiti, drug dealing, frequent interpersonal and family conflict, and gang activity. Unsafe communities were described as "lonesome" places where neighbors don't know one another or watch out for one another. Youth may lack family support as well as educational and employment opportunities, causing service providers to lament that "in this population, kids don't see themselves after high school." When faced with a lack of optimism about the future, youth may become involved in gangs and criminal activity, leading a focus group participant to comment, "If youth don't value their own lives, how can we expect them to value ours?"

**Youth firearm violence is driven by gang activity.** Based on information provided by law enforcement and corrections personnel, as well as by community members, it is reasonable to conclude that gang activity is the main driver of youth firearm violence in San Mateo County. On a single day in 2011, 50 percent of juvenile inmates and 41 percent of adult inmates incarcerated and charged with a firearm crime in San Mateo County had a known gang affiliation. While gang members commit crimes in nearly all municipalities of the county and often cross city and county lines, in San Mateo County they are concentrated in the following cities: East Palo Alto, Daly City, Menlo Park, Millbrae, South San Francisco, Redwood City, San Mateo, San Bruno, Half Moon Bay, and in unincorporated areas such as the North Fair Oaks neighborhood of Redwood City. Gang culture glamorizes the use of firearms and encourages youth to gain respect and status through violence and criminal activity. Gang members "take their pictures with their guns and

text it to friends or post it on Facebook," where "kids as young as 14 years old are shown holding their guns with their 'rag and colors'." (Service Provider)

**GANGS TARGET VULNERABLE YOUTH**

Even youth who are reluctant to become involved with a gang may be forced to do so. According to Gang Intelligence Unit (GIU) officers, youth are often approached by gang members at school or at afterschool programs. "Youth as young as 11 years old are approached by their school friends to join the gang. Many of these youth come from broken homes; are being raised by a single parent, live in poverty, or face other family issues. Gangs capitalize on this lack of stability by offering the at-risk youth a place or group to belong. Recruiters further entice kids by offering them a chance to earn money and respect on the streets. Otherwise, gangs coerce youth. Refusing to join a gang could result in bullying, intimidation, embarrassing the youth in front of peers at school, or being accused of association with rival gangs, which can have drastic consequences." (GIU Officer).

**Reprisals and revenge create a cycle of violence.** A service provider described how the typical cycle of violence plays out: "If someone is playing around with the idea of being in a gang and their friend gets shot, all of a sudden it becomes easier for them to retaliate and do harm to someone else...When the shooting happened in South San Francisco, that's something I heard a lot about at Juvenile Hall. Affected youth were declaring that 'we're going to load up on guns, our neighborhood needs more guns'." Youth described being given firearms by gang members, or even family members, and being asked to take part in reprisals. One young woman recounted a story of resisting pressure to take part in revenge and telling her grandmother, "No, it ain't happening" when she was handed a gun and asked to avenge her cousin's death. Bullying may also be a contributing factor to retaliatory violence in some cases; unfortunately "there is a lack of communication and awareness [about bullying] on the part of parents and staff at school," according to service providers. A pattern of retaliation against "snitching" may be a factor in the reluctance to report firearm crimes; both parents and youth reported that fears of reprisal may keep them from informing law enforcement about firearm crimes in their communities.



**Youth firearm violence negatively impacts quality of life in multiple ways.** The majority of youth and parents from affected communities who participated in surveys and focus groups believed that they or a loved one could be a victim of firearm violence in the near future. Similarly, 67 percent of youth and 57 percent of parents reported that youth firearm violence was a “very significant” or “somewhat significant” problem in their lives. Youth and parents described their sadness at losing friends and relatives to youth firearm violence, as well as being fearful when shootings happened near their homes. Others reported apathy, helplessness, and desensitization that can occur as a result of frequent exposure to violence. For example, one youth stated, “I’m immune to it now. I’ve gotten used to it. I’ve seen people die, friends die, brothers die, cousins die,” while another noted that firearm violence is “normal” in his community.

Fear of violence leads both youth and adults to lead their lives differently, especially with respect to outside play and walking around their neighborhoods. Sixty-three percent of youth and 38 percent of parents surveyed reported avoiding areas of their neighborhoods they would otherwise pass through, while parents participating in focus groups reported staying in at night and not allowing their children to walk to school or to play in local parks. The majority of youth and parents surveyed felt that youth firearm violence was an important factor in deciding where to live, though parents reported that economic considerations may force them to live in neighborhoods they consider to be unsafe.

**Firearm violence has massive hidden financial costs that are difficult to measure.** Researchers have attempted to estimate total costs for fatal and non-fatal injuries in the United States. These total costs include not only criminal proceedings, lost productivity and medical care, but also the suffering and decreased quality of life experienced by victims. Such dollar estimates are necessarily inexact, but nonetheless

can be useful for decision-makers as they weigh the cumulative costs of violence against the costs of preventive measures. Values are assigned to parameters such as suffering and decreased quality of life by using benchmarks such as “pain and suffering” jury damage awards and workers’ compensation payments, as well as “Willingness to Pay” methodology.<sup>4</sup>



Based on these methods, each fatal injury costs society an estimated \$6.4 million (range \$3.4 to \$9.1 million), and each non-fatal injury costs society an estimated \$46,000. Using the parameters, the cost of the 36 fatal and 133 non-fatal firearm injuries to youth in San Mateo County from 2005-2009 will total \$234 million over time.

**We all pay for youth firearm crime.** Although youth firearm violence is concentrated in a small number of San Mateo County communities, the cost of youth firearm crime is shared by all county residents. Local government institutions spend vast public funds responding to, investigating, prosecuting, defending, preventing, and punishing youth firearm crime. Because of the concentrated nature of youth firearm violence, affected police departments must also recruit and train additional officers to investigate gangs and interact with youth. *Table 2* describes these costs and programs.

## EASE OF ACCESS TO FIREARMS

Sixty-three percent of youth surveyed felt it was “very easy” or “somewhat easy” to get access to firearms, and the majority of participants in a youth focus group felt that they could get a gun “with one phone call.” Youth most commonly obtained guns by stealing, by illegally purchasing them from an individual on the black market, or “from their homes.” Respondents reported that firearms could be purchased for “as little as \$80 to \$300—depending on the size of the gun.” An intergenerational pattern of gang involvement or criminal activity may lead to youth having access to guns from family members, and being able to borrow or informally barter for guns. Respondents pointed out that getting a gun is “as easy as access to drugs.” This climate of ready gun availability led a service provider to observe that “it seems harder for adults to get legal access to guns than for kids to get illegal access.” This surprising information regarding the ease of youth access to guns is supported by data from the 2007 California Healthy Kids Survey, in which 4.8 percent of San Mateo County 7th, 9th, and 11th graders reported having brought a gun to school, a rate similar to that for the Bay Area overall (5 percent).



Table 2

**Estimated Costs to Local Police Departments to Prevent and Respond to Youth Firearm Crime in 2010**

Police Department (n = total youth firearm crime investigations 2010)	Crime Investigation	Crime Prevention	Miscellaneous Overhead	Average Total Cost per Youth Firearm Crime Investigation <sup>5</sup>
Daly City (n = 22)	\$117,900	\$435,801	\$88,425	36,935 (\$1,283- \$72,430)
East Palo Alto (n = 76)	\$6,556,200 <sup>2</sup>	6	7	\$86,265
Redwood City (n = 23) <sup>8</sup>	---	---	---	---
San Mateo (n = 17)	\$108,536	\$1,356,000	—	\$86,149

When police department estimates are combined with those from other County agencies, San Mateo County taxpayers spend from \$57,117 to \$856,323 for their County and City governments to respond to one youth firearm crime (Table 3).

Incarceration represents a significant proportion of these costs because the average length of detention from pre-trial through completion of sentence for a firearm crime is 297 days for adults (at \$172 per day) and 610 days for juveniles (at \$428 per day).

Table 3

**Estimated Range of Costs for one Firearm Crime to San Mateo County Taxpayers for Local Government Law Enforcement Response to Youth Firearm Crime in 2010**

San Mateo County Local Government Agency	Juvenile	Adult
Youth Services Center Costs to detain a youth from pretrial to sentence for firearm crime (610 days)	\$261,080	NA
San Mateo County Jail Costs to detain an adult from pretrial to sentence (297 days)	NA	\$51,084
San Mateo County Coroner (homicide cases only) Transportation of the deceased, morgue, autopsy, etc	\$7,500	\$7,500
San Mateo County Superior Court* Costs to try suspects of firearm crime	(\$98-\$1,478)	(\$750-\$5,456)
San Mateo County District Attorney Legal costs to prosecute firearm crime	(\$2,000-\$250,000)	(\$2,000-\$250,000)
San Mateo County Private Defender Services Legal costs to defend firearm crime	(\$2,000-\$250,000)	(\$2,000-\$250,000)
Local Police Department (Response and Investigation, see Table 3)	(\$1,283-\$86,265)	(\$1,283-\$86,265)
<b>Estimated cost range of one firearm crime based on severity (i.e. illegal firearm possession to homicide)</b>	<b>(\$266,461-\$856,323)</b>	<b>(\$57,117-\$650,305)</b>

\*Court costs are averages weighted by stage of court proceeding of firearm crime prosecuted by the District Attorney from 2009-July 2011 combined with cost estimates from the Superior Court.

These costs encompass the range of firearm crime severity from illegal possession to murder. Costs for State prison incarceration

are not included here, nor are costs averted because suspect posted bail. The District Attorney provided a range of legal prosecution costs; since we were unable to obtain cost estimates from the Chief of the County Private Defender Program, we assumed defense costs to be comparable to those of the prosecution.



## SOLUTIONS

As we have seen, youth firearm violence impacts safety and quality of life, and causes incalculable human suffering. Taxpayers bear the expense for incarceration, court costs, and law enforcement, and society as a whole is burdened by the hidden costs of the death and disability of gun violence victims. Furthermore, the existing law enforcement response mechanisms emphasize extraordinarily costly punitive measures, rather than preventive or rehabilitative ones. Cost effectiveness studies show that the fiscal benefits of youth violence prevention programs are significant, but not generally realized for 15 years or more.<sup>9</sup> The benefits of prevention are real, but are often delayed and are impossible to link to an individual. While not optimal, fiscal pressures tend to influence policymakers to devote resources to immediate needs instead of a more systematic perspective, which includes wisely investing in critically necessary prevention programs.

Effective strategies to reduce youth violence include programs targeted at young children, their parents, the community, and school environment, and more intensive services for youth who have already committed crimes. In general, research shows that the most effective interventions focus on young children and their families, or youth who have already exhibited criminal behavior. For example, violent and delinquent youth have been found to benefit the most from programs that provide a wide array of support, such as skills and behavioral training, and family therapy. The following proposed solutions represent “best practices” drawn from our experience in San Mateo County and from success stories across the nation, as well as the opinions and recommendations of community members who participated in this study. These solutions should be included in, and strongly connected with, any funding decisions related to public safety.

**Breaking the cycle of violence among vulnerable youth:** Violence prevention interventions must be a part of a comprehensive effort to create a supportive family and community environment for all children and youth. In addition, however, intensive interventions, both preventive and rehabilitative, specifically directed at youth who are at-risk or already involved in criminal activity, are critical to saving lives and preventing firearm crime. Youth directly affected by firearm violence have the highest risk of becoming perpetrators. In the words of one service provider, the community needs to be there “as a support for those affected, because they are the ones that are more likely to take revenge.” CeaseFire Chicago<sup>10</sup> utilizes prevention, intervention and community mobilization tactics to reduce street violence. The program offers at-risk individuals GED programs, anger management counseling, drug and alcohol treatment, and assistance with finding work and childcare. CeaseFire also hires “violence interrupters” as outreach workers to mediate conflict between gangs. After a shooting, they offer nonviolent conflict resolution alternatives to halt the cycle of retaliatory violence. As a direct result of the program, shootings decreased 16 to 28 percent in four of

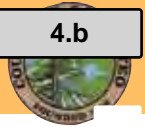
the seven targeted areas. The decrease was “immediate and permanent” in three areas and “gradual and permanent” in a area.

This violence interruption program is very similar to the current activities of the Gang Intelligence Unit and Operation Ceasefire in San Mateo County. The San Mateo County Gang Intelligence Unit (GIU) consists of members of the Sheriff’s Office, San Mateo County Probation, and assigned detectives from the local municipalities. GIU’s primary responsibility is collecting and analyzing information and then distributing the developed intelligence to law enforcement agencies in and around San Mateo County, as well as patrolling the streets of all twenty municipalities in the county several days a week to counter gang activity. The GIU is highly effective in countering gang activity. In 2010, the GIU arrested more than 434 individuals engaging in gang activity. To maintain its success, San Mateo County must craft a sustainable funding plan to ensure that the Sheriff’s Department, which funds the GIU, has the resources it needs to continue its support of GIU’s critical effort in curbing youth firearm violence.



Operation Ceasefire was established by the East Palo Alto Police Department in partnership with numerous law enforcement, government, community-based and faith organizations to implement a violence and drug market reduction strategy. Operation Ceasefire partners with law enforcement and the community to sit down with gang-affiliated individuals and offer them services that provide alternatives to their destructive behavior, and use strategic enforcement programs to hold accountable those who fail to take advantage of the services and continue to victimize the community. Operation Ceasefire is currently based in the City of East Palo Alto. To further enhance the program’s success, San Mateo County should explore Ceasefire’s methods to determine which are most effective and how to best apply them to reduce youth firearm violence in other cities in San Mateo County.

**Law enforcement and communities working together** Law enforcement serves as the community’s primary response against armed violence, but can be most effective in the context of a community collaboration. A successful example of this collaboration in San Mateo County is the Violence Prevention Network that brings local police and the Sheriff together with



parents and students in the school setting. Some youth may be more open to addressing issues of violence at school, “because that’s where kids feel safe, and that’s where kids will speak up.” In general, more frequent positive interactions between youth and police in a setting where the power imbalance is reduced help youth become more comfortable with law enforcement and more open to their presence. Law enforcement can take on primary prevention of violence as a critical function. Another critical strategy to break the cycle of violence is law enforcement support to protect youth who make a good faith effort to leave gangs. San Mateo County law enforcement leadership should consider establishing debriefing units to help gang-affiliated youth safely leave gangs. In exchange for providing information about the gang, a youth would receive protection, skill-building, and educational services. The potential benefits of such a program could outweigh the financial costs over time; not only could it make the County’s streets safer, it would provide opportunities for the most at-risk youth to turn away from a life of violence. One young person transformed could result in multiple lives saved. Trust and cooperation generated by programs like these will increase the effectiveness of enforcement efforts in the larger community.

### Youth empowerment in the community and educational context:

By valuing youth perspectives, prioritizing youth issues, and incorporating youth voices, communities will be able to reduce youth firearm violence more effectively. Empowering at-risk youth means helping them gain confidence, life skills, and hope for the future. This empowerment can come from active involvement in community service, afterschool programs, sports, creative activities (art, music, theater), dealing assertively with technological aggression (on-line bullying), and job skills training or part-time jobs. By providing youth with more options that promote the constructive use of time, communities keep youth off the streets, let youth know that the community cares, and give youth the opportunity to explore and discover their talents. In addition, many parents and service providers who participated in this study expressed a wish for more mentorship programs led by successful male role models, who originate from low-income communities. These male leaders, “who will fight for our kids,” serve as true-to-life examples that economic background does not necessarily dictate one’s future.

Not surprisingly, research shows that staying in school reduces the risk of violent behavior. The “School Transitional Environment Program” (STEP)<sup>11</sup> was developed at the University of Illinois to help schools create a supportive environment that promotes academic achievement and reduces behavioral problems and truancy. Students transitioning to middle school or high school are placed in small cohorts that remain together over time, and teachers partner with families to follow-up on school absences and behavior problems. Participants in the STEP program generally have fewer absences from school, lower drop-out rates, lower rates of delinquency, higher

## SELF-CONTROL AND PROBLEM-SOLVING SKILLS CRITICAL FOR YOUTH

A strong emotional and behavioral foundation can help youth successfully avoid violence. In general, parents and schools can work together from early childhood to establish boundaries, rules, and expectations for children. Conflict resolution and communication skills in youth are paramount. Two successful programs for younger children at use in communities nationwide show the power of emotional awareness and problem-solving skills in promoting positive behaviors and discouraging violence. “Promoting Alternative Thinking Strategies” is aimed at elementary school kids through fifth grade. It trains children in self-expression, self-control, and interpersonal problem-solving skills. The program has yielded positive effects on risk factors associated with violence, including aggressive behavior, anxiety and depression, and conduct problems. The “I Can Problem Solve” program teaches interpersonal problem-solving skills to children of nursery school age through sixth grade. Studies have demonstrated that improvements in impulsivity and conflict resolution were sustained 3 to 4 years after the end of the program. This program has been generally most effective for at-risk children living in poor, urban areas. For youth who have already suffered the harsh effects of violence, there needs to be an increased and systematic use of alternative dispute resolution processes. Such methods include mediation among youth offenders, victims, and others impacted by violence in the community.

grade-point averages, more positive feelings about school, and a better self-image.

### Asset building among parents and community members:

Educating parents, youth and community members is essential to curbing youth firearm violence. Several service providers participating in this study suggested that the County educate community members about how easy it is for youth to get guns. This increased awareness may lead community members to play a more active role in advocating for strategies



that prevent unlawful youth access to guns. Parents and service providers could also be taught how to look for signs of negative peer influence or gang affiliation. "Right now, parents are concerned about drug use or the way their children dress, and who they hang out with, but they're failing to make the link between the types of influences that can lead to gun use." (Service Provider) Holding community information sessions concerning recognition of these early signs could help parents and service providers better respond to at-risk youth. In addition, parents need to be made aware of the media's influence on children and youth. Subtle messages presented to youth through music and television too frequently promote and glorify guns and violence. Educating parents to assess the media their children come in contact with in order to decrease exposure to violent content could help lessen the appeal of guns and violence.

Just as an unsafe community environment promotes youth involvement in gangs and violence, a positive community environment will promote positive choices and behaviors. Supporting and empowering youth to make mature decisions is a complex task, which requires active contributions from families, schools, neighbors, community organizations, local

government, and law enforcement. More than ever, youth need caring adults to establish rules and boundaries and provide opportunities for education, employment, and health social outlets. By giving at-risk youth the support and guidance they need, we can help them lead violence-free lives and give them the confidence and skills to build successful futures.

Listed are the model ordinances and resolutions for cities and counties to pursue.

- Model Ordinance Regulating Firearms Dealers and Ammunition Sellers
- Model Ordinance Requiring Reporting of Lost or Stolen Firearms
- Model Ordinance Prohibiting the Possession of Large Capacity Ammunition Magazines
- Model Resolution Encouraging Law Enforcement to Send Letters to Prospective Handgun Purchasers
- Model Resolution Encouraging Law Enforcement to Obtain and Utilize Department of Justice Information About Prohibited Armed Persons

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or visit:

<http://www.abag.ca.gov/model-ordinances/>



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## APPENDIX: METHODS

### Qualitative methods

Peninsula Conflict Resolution Center (PCRC), a community-based organization that provides problem solving expertise in San Mateo County through mediation, violence prevention, and family engagement, was contracted by the Office of Supervisor Rose Jacobs Gibson and the Association of Bay Area Governments to collect community input for this project. PCRC and the Office of Supervisor Rose Jacobs Gibson recruited a demographically diverse convenience sample of participants from local schools, service organizations, and other sites within the communities most affected by youth firearm violence. Surveys were completed by 84 youth, 275 parents, and 115 service providers, faith-based leaders, and law enforcement representatives. In addition, 37 youth, 23 parents, and 9 service providers participated in focus groups and 20 youth, parents, and service providers were interviewed individually or in small groups by PCRC staff. Gang Intelligence Unit personnel were interviewed by San Mateo County staff. Focus group summaries, video and audio interviews, and free text survey responses were analyzed for common themes and concerns. A convenience sample methodology is acceptable in this setting, because the goals of this qualitative analysis were to obtain a deeper understanding of the causes, motivations, and lived experiences underlying observed behaviors and outcomes.

### Quantitative methods

Multiple data sources and analytic methods were used for the quantitative portion of this analysis. Countywide emergency room discharge data were obtained from the Office of Statewide Health Planning and Development and analyzed to determine the number of firearm injuries over the last 5 years, as well as the demographics of those affected. Firearm death statistics were obtained from death certificates. Demographic and other information such as gang affiliation and recidivism was obtained for inmates incarcerated for firearm crimes at the county's two detention facilities for single "snapshot" days. Local police departments supplied counts of firearm-related arrests, as well as operating budgets and (in the case of one department) costs of responding to individual firearm crimes. The District Attorney, Private Defender, County Superior Court, and County Coroner also contributed cost information. In addition, methodologies for calculating global societal costs for injuries and deaths were obtained from scholarly literature and applied to the San Mateo County youth firearm injury and death counts.

### Police Department Notes

Four local police departments provided data on the number and costs of their youth firearm crime response and prevention activities in 2010. These responses attempt to account for all of the officers, detectives, specialized crime investigation and prevention units, school resource officers, and other staff involved in youth firearm crime investigations. Although these data are informal and not standardized, they are the best available considering the few resources available for their collection. Please see the appendix for further police department details.

**Daly City Police Department:** The Daly City Police Department was able to time survey and calculate the investigation, prevention-program, overhead, and employee benefit costs for the 22 youth firearm crime investigations in Daly City in 2010. The range of costs reflects the severity (i.e. from illegal possession to murder) of crime and the number of personnel hours involved in each. The Daly City prevention costs are lower than the other police department estimates because they only account for the time youth crime prevention staff spent working on the specific youth firearm crime investigations. Prevention programs include the Crime Suppression Unit and School Resource Officer, both of whom are involved in every youth firearm crime investigation.

**East Palo Alto Police Department:** The East Palo Alto Police Department estimates that as much as 60 percent of its total operating budget is spent on the law enforcement response, investigation and prevention of youth firearm crime.

As many of these enforcement intervention and prevention programs are interrelated, it is difficult to attribute exact costs to each component. Among the numerous firearm prevention and enforcement programs, the Police Department has identified Project Ceasefire (see pages 9-10) as one with significant promise.

**Redwood City Police Department:** The Redwood City Police Department has worked actively in youth firearm crime prevention. The Department's Juvenile Unit and Street Crime Suppression Team and School Resource Officer have been active in educating schools, at-risk youth and their parents about gangs and have incorporated preventing firearm violence in their presentations.

**San Mateo City Police Department:** The San Mateo City Police Department's Youth Service Bureau coordinates prevention and enforcement of youth crime. Through this agency, school resource officers, the Police Activities Leagues, the Juvenile detective, and schools work to identify at-risk youth who are candidates for diversion from the juvenile justice system. Through this program, youth are referred to activities in or after school designed to foster his or her positive development and relationships with law enforcement.

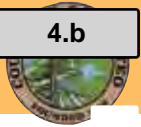


Selected Demographics of <u>Youth Service Provider Respondents</u> to the San Mateo County Youth Firearm Violence Impact Survey 2011 (n = 115)	
Race Ethnicity	Percent
Asian and Pacific Islander	2.6
African American	8.7
Latino	24.3
Native American	0.9
Other	18.3
White	45.2
Household Income	
	Percent
\$10,000-\$29,999	4.3
\$30,000-\$59,999	18.3
\$60,000-\$79,999	14.8
\$80,000-\$99,999	17.4
\$100,000 +	45.2

Selected Demographics of <u>Parent Respondents</u> to the San Mateo County Youth Firearm Violence Impact Survey 2011 (n = 275)	
Race Ethnicity	Percent
Asian and Pacific Islander	5.5
African American	2.9
Latino	46.5
Native American	1.5
Other	5.5
White	38.2

Household Income	Percent
0-\$9,999	13.5
\$10,000-\$19,999	9.5
\$20,000-\$29,999	10.5
\$30,000-\$59,999	13.1
\$60,000-\$79,999	9.8
\$80,000 +	43.6





<b>Selected Demographics of East Palo Alto and Redwood City Youth Respondents to the San Mateo County Youth Firearm Violence Impact Survey 2011 (n = 85)</b>	
<b>Race Ethnicity</b>	<b>Percent</b>
<b>Asian and Pacific Islander</b>	3.6
<b>African American</b>	3.6
<b>Latino</b>	89.3
<b>Other</b>	2.4
<b>White</b>	1.2
<b>Household Income</b>	<b>Percent</b>
<b>0-\$9,999</b>	23.8
<b>\$10,000-\$19,999</b>	20.2
<b>\$20,000-\$29,999</b>	29.8
<b>\$30,000-\$59,999</b>	13.1
<b>\$60,000-\$79,999</b>	8.3
<b>\$80,000 +</b>	4.8

<sup>1</sup> "Youth" is as youth and young adults from ages 12 - 25 years of age.

<sup>2</sup> The terms "Firearm" and "Gun" are used interchangeably in this report.

<sup>3</sup> "Youth violence" is as violence involving a in which the perpetrator and/or the victim is a youth.

<sup>4</sup> U.S. Department of Transportation of the Assistant Secretary for Transportation Policy. (2007) Treatment of the Economic Value of a Statistical Life in Departmental Analysis (Accessed July 5, 2011 from <http://ostpxweb.dot.gov/policy/reports/080205.htm>). Washington DC: Peter Belenky

<sup>5</sup> Average was calculated by dividing the estimated crime investigation, prevention, and overhead costs spent on youth crime by the number of youth violent crimes investigated, except in Daly City. For Daly City, the average cost was weighted based on the frequency and severity of crime investigat

<sup>6</sup> Because crime investigation, enforcement, and prevention programs in the East Palo Alto Police Department are integrated, each program's cost contribution to a youth crime investigation could not be separated.

<sup>7</sup> Ibid

<sup>8</sup> See appendix for Redwood City information.

<sup>9</sup> Greenwood, Peter W., Karyn Model, C. Peter Rydell and James Chiesa. *Diverting Children from a Life of Crime: Measuring Costs and Benefits*. Santa Monica, CA: RAND Corporation, 1998. [http://www.rand.org/pubs/monograph\\_reports/MR699-1](http://www.rand.org/pubs/monograph_reports/MR699-1).

<sup>10</sup> <http://www>

<sup>11</sup> <http://www.aypf.org/publications/compendium/C1S18.pdf>

<sup>12</sup> <http://www.surgeongeneral.gov/library/youthviolence/>

<sup>13</sup> Ibid

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YOUTH GUN VIOLENCE • SEPTEMBER 2011



**Suicide by Firearms in Santa Clara County:**

**Rates and Solutions**

Tiffany Shiu and Diego Martinez

District Two Fellowship and Internship Program

Office of Supervisor Cindy Chavez

Summer 2018

Attachment: FINAL Firearm Suicides Paper\_Sup. Chavez Aug18 (1993 : Gun Violence Ordinance)

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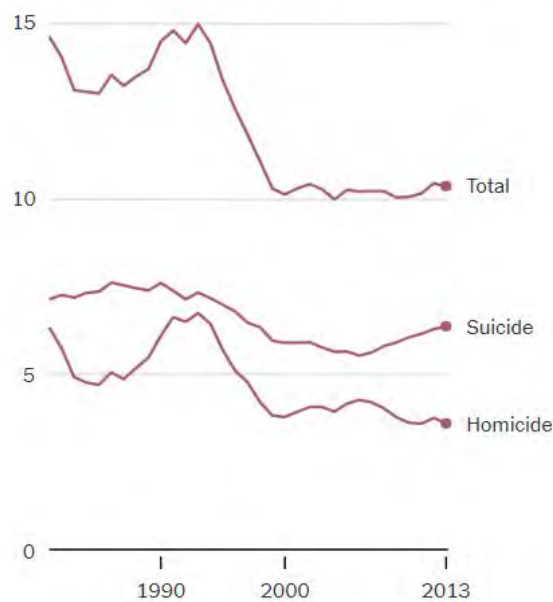
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## Introduction

Often times when Americans think about firearm deaths, they focus on mass shootings. However, suicide accounted for 61% of all firearm fatalities in the U.S. in 2014.<sup>1</sup> Firearm suicide rates have been consistently higher than firearm homicide rates, and firearm suicide rates have been increasing since 2006 (Figure 1). Unfortunately, suicide is more stigmatized and less discussed than homicide, which makes this issue more important than ever.

Figure 1: Gun Deaths in the U.S. per 100,000 people <sup>2</sup>



Death rates are age-adjusted. Some categories of gun deaths, such as those from accidents, are not shown.

<sup>1</sup> Grinberg, E. (2017, February 18). Gun violence not a mental health issue, experts say, pointing to 'anger,' suicides. Retrieved August 3, 2018, from <https://www.reviewjournal.com/life/health/gun-violence-not-a-mental-health-issue-experts-say-pointing-to-anger-suicides/>

<sup>2</sup> National Center for Health Statistics. (2017, March 17). Retrieved August 4, 2018, from <https://www.cdc.gov/nchs/fastats/suicide.htm>

One of the intended outcomes of this research was to fully understand the affected population: gender, ethnicities, age groups and cities of the firearm suicide decedents nationally and in Santa Clara County. Suicide by firearm is not merely a mental health or gun safety issue, but rather a combination of the two. The findings and the recommendations of this research are focused on how to reduce access to lethal means and how to give people with suicidal ideations the resources they need.

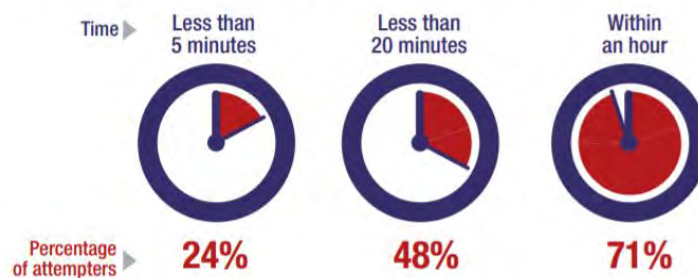
## Literature Review

### *National Statistics on Suicide Rates*

Suicides are the second-most common cause of death for Americans between 15 and 34 years old.<sup>3</sup> For all ages, it is the 10th most common cause of death.<sup>4</sup> Firearms are the most common method of suicide, accounting for 51% of all suicides in 2016.<sup>5</sup> Among American females, 32.1% of suicide deaths were by firearm and among American males, 56.6% of suicide deaths were by firearm in 2015.<sup>6</sup>

Often, suicide attempts occur shortly after people decide to end their lives (Figure 2). For instance, an investigation by the New Hampshire Medical Examiner's death investigation reports that among the 144 firearm suicides that occurred over a two-year period (ending June 30, 2009), nearly one in ten were committed with a gun that was purchased or rented within a week of the suicide (usually within hours).<sup>7</sup> The figure is likely an underestimate since two-thirds of the reports made no mention of when the gun was obtained.<sup>8</sup>

Figure 2: Time Elapsed between Decision and Suicide Attempt<sup>9</sup>



<sup>3</sup> Suicide. (n.d.). Retrieved July 26, 2018, from <https://www.nimh.nih.gov/health/statistics/suicide.shtml>

<sup>4</sup> National Center for Health Statistics. (2017, March 17). Retrieved July 26, 2018, from <https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>

<sup>5</sup> Suicide Statistics. (n.d.). Retrieved August 5, 2018, from <https://afsp.org/about-suicide/suicide-statistics/>

<sup>6</sup> Suicide. (n.d.). Retrieved August 5, 2018, from <https://www.nimh.nih.gov/health/statistics/suicide.shtml>

<sup>7</sup> Training in Suicide Prevention, Intervention and Postvention. (n.d.). Retrieved August 6, 2018, from <http://www.theconnectprogram.org/>

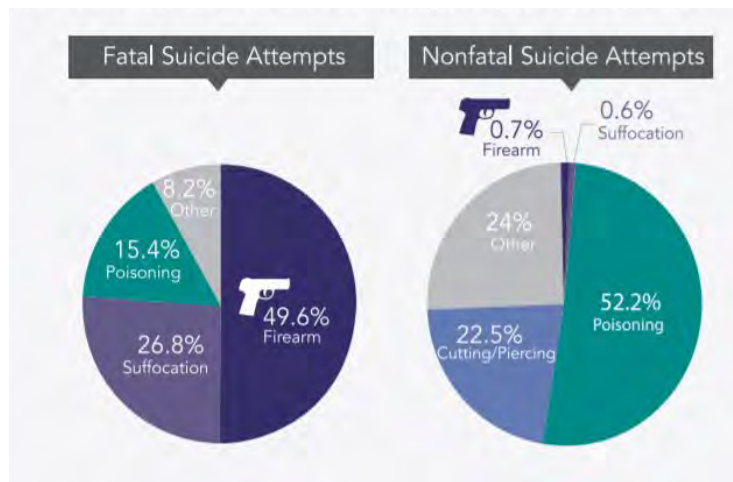
<sup>8</sup> Ibid.

<sup>9</sup> The Truth About Suicide & Guns. (n.d.). *Brady Campaign*. Retrieved August 4, 2018.

One of the most lethal means of suicide is the use of a firearm. Firearm usage is 95% fatal and is only exceeded by stepping in front of a train which is 98.5% lethal.<sup>10</sup> Unfortunately, those who attempt to kill themselves with a firearm rarely get a second chance as with other methods (Figure 3). Having a gun readily available in the home makes the likelihood of death significantly more likely. A growing body of research suggest that having guns in the home prior to the decision to commit suicide contributes to increased suicide risk beyond other risk factors such as substance abuse, a history of self-harm, hopelessness or depression.

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Figure 3: Fatal and Nonfatal Suicide Attempts by Method (2015)<sup>12</sup>



When suicide attempts do fail, very few go on to die by suicide using an alternative method. If they do attempt suicide again, they will most likely use a less lethal method since firearm is one of the most lethal methods of suicide. A review of 90 studies of long term outcomes for people who survived a suicide attempt found that 89-95% did not go on to die by suicide, even when followed over a period of 9 years or more. Some 20-25% did make another nonfatal attempt;

<sup>10</sup> Lethality of Suicide Methods. (2017, January 06). Retrieved July 26, 2018, from <https://www.hsph.harvard.edu/means-matter/means-matter/case-fatality/>

<sup>11</sup> Grinberg, E. (2017, February 18). Gun violence not a mental health issue, experts say, pointing to 'anger,' suicides. Retrieved August 3, 2018, from <https://www.reviewjournal.com/life/health/gun-violence-not-a-mental-health-issue-experts-say-pointing-to-anger-suicides/>

<sup>12</sup> The Truth About Suicide & Guns. (n.d.). *Brady Campaign*. Retrieved August 4, 2018.

roughly 70% made no further fatal or nonfatal attempts. This is because acute suicidal feelings often lessen with time, changes in life circumstances, treatment or other support.<sup>13</sup>

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<sup>13</sup> Owens, D. (2002). Fatal and Non-Fatal Repetition of Self-Harm. *British Journal of Psychiatry*. Retrieved July 26, 2018.

*Analyzing Santa Clara County Firearm Suicides*

Fifty nine percent of firearm deaths are suicides in Santa Clara County from 2007-2016.<sup>14</sup> Firearm is the second most common method of suicide after hanging, and approximately 32% of suicide deaths are by firearms in the county in 2015.<sup>15</sup>

In 2016, the Center for Disease and Control (CDC) and the Substance Abuse and Mental Health Services Administration (SAMHSA) conducted an investigation on youth suicide in the county. The purpose of this investigation was to utilize existing data to develop specific prevention and control recommendations on youth suicide prevention that can be used on the school, city, and county levels.<sup>16</sup> The investigation looked at trends in fatal and non-fatal behaviors among youth occurring from 2008 through 2015 in the county. It examined whether media coverage of youth suicides met safe reporting guidelines, compared youth suicide prevention policies, activities and protocols used in the community to evidence-based and national recommendations and made recommendations on youth suicide prevention strategies.<sup>17</sup> Some of the outcomes include:

- “Since 2003, the crude suicide rate for youth, ages 10–24, that died in California and were residents of Santa Clara County has remained stable, with no significant differences over time.
- The suicide rate for 10–24 year olds in Santa Clara County was 5.4 per 100,000, combining data from 2003 to 2014. This is similar to the California suicide rate of 5.3 per 100,000. The suicide rate for youth nationwide was higher than the county and state rates.
- A total of 229 suicide deaths occurred in 10–24 year olds residing in Santa Clara County from 2003 to 2015
  - Two-third of these were ages 20–24 (66%)
  - Three quarters were males (75%)

<sup>14</sup> Fact Sheets. (n.d.). Retrieved July 26, 2018, from <https://www.sccgov.org/sites/phd/hi/hd/Pages/fact-sheets.aspx>

<sup>15</sup> Ibid.

<sup>16</sup> Epi-Aid on Youth Suicide in Santa Clara County. (n.d.). Retrieved July 24, 2018, from <https://www.sccgov.org/sites/phd/hi/hd/epi-aid/Pages/epi-aid.aspx>

<sup>17</sup> Ibid.

- Nearly 2 in 5 were White, non-Hispanic (39%) followed by 27% Asian/Pacific Islander, 27% Hispanic and 4% African American.
- Findings shows that almost all youth deaths by suicide had factors that preceded the suicide. These factors include, for example, a recent crisis or a current mental health problem.
- In student surveys from 2005 to 2014, the percentage of high school students who reported that they had thoughts of suicide in the past 12 months ranged from 15% to 19% in Santa Clara County.
- From 2009 to 2015, Bay Area media reporting departed from the accepted safe suicide reporting guidelines. Common problems with reporting included describing the method of suicide and location of the injury or death in the story.”<sup>18</sup>

The Santa Clara County Office of the Medical Examiner/Coroner compiled a comprehensive database of firearm deaths from 2014-2017 in the county. This database includes the decedent’s name, age, gender, ethnicity, death location, zip code, location of death, date of death, cause of death, other significant conditions contributing to the cause of death, how the injury occurred, the manner of death, and the make, model and barrel length of firearm (if known) of the decedent (Appendix A). This information enabled analysis of the issues at the local level. Information regarding employment, income, mental and whether the firearm was obtained legally or illegally is not available to the public. However, generally, suicide victims are employed and come from all economic backgrounds.<sup>19</sup> In fact, higher income individuals are more likely to commit suicide rather than people of a lower economic class.<sup>20</sup> For men, divorced individuals are more likely to take their own lives rather than married individuals.<sup>21</sup> Among women, marital status

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<sup>18</sup> Ibid., p 10.

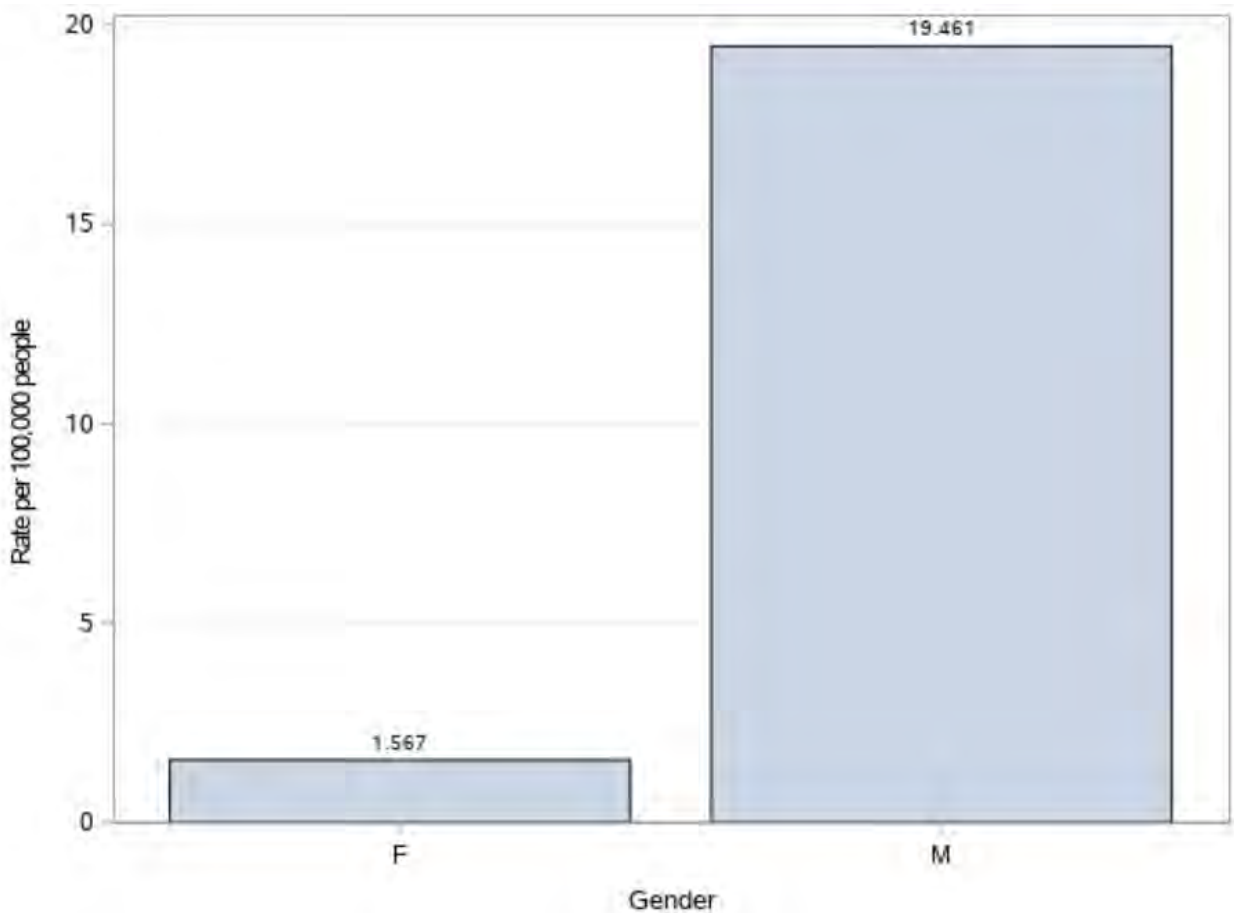
<sup>19</sup> Rehkopf, D. H., & Buka, S. L. (2006, February). The association between suicide and the socio-economic characteristics of geographical areas: A systematic review. Retrieved July 31, 2018, from <https://www.ncbi.nlm.nih.gov/pubmed/16420711>

<sup>20</sup> J. S. (2012, November 08). Why Suicides Are More Common in Richer Neighborhoods. Retrieved July 26, 2018, from <http://business.time.com/2012/11/08/why-suicides-are-more-common-in-richer-neighborhoods/>

<sup>21</sup> Kposowa, A. (2000, April). Retrieved July 31, 2018, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1731658/>

does not affect the risk of suicide. Firearms used in suicides are mostly obtained legally.<sup>22</sup> The trends found in the county correlate with the national trends.

Figure 4: Santa Clara County Firearm Suicide Death Rates by Gender (2014-2017)<sup>23</sup>



In this four year period there were 179 firearm suicides - 13 female and 166 male. As Figure 4 indicates, there was a female firearm suicide rate of 1.567 per 100,000 County residents and a male firearm suicide rate of 19.461 per 100,000 County residents. Both nationally and in the County, suicide by gun is particularly common among men, and in women, it is the second most prevalent method after

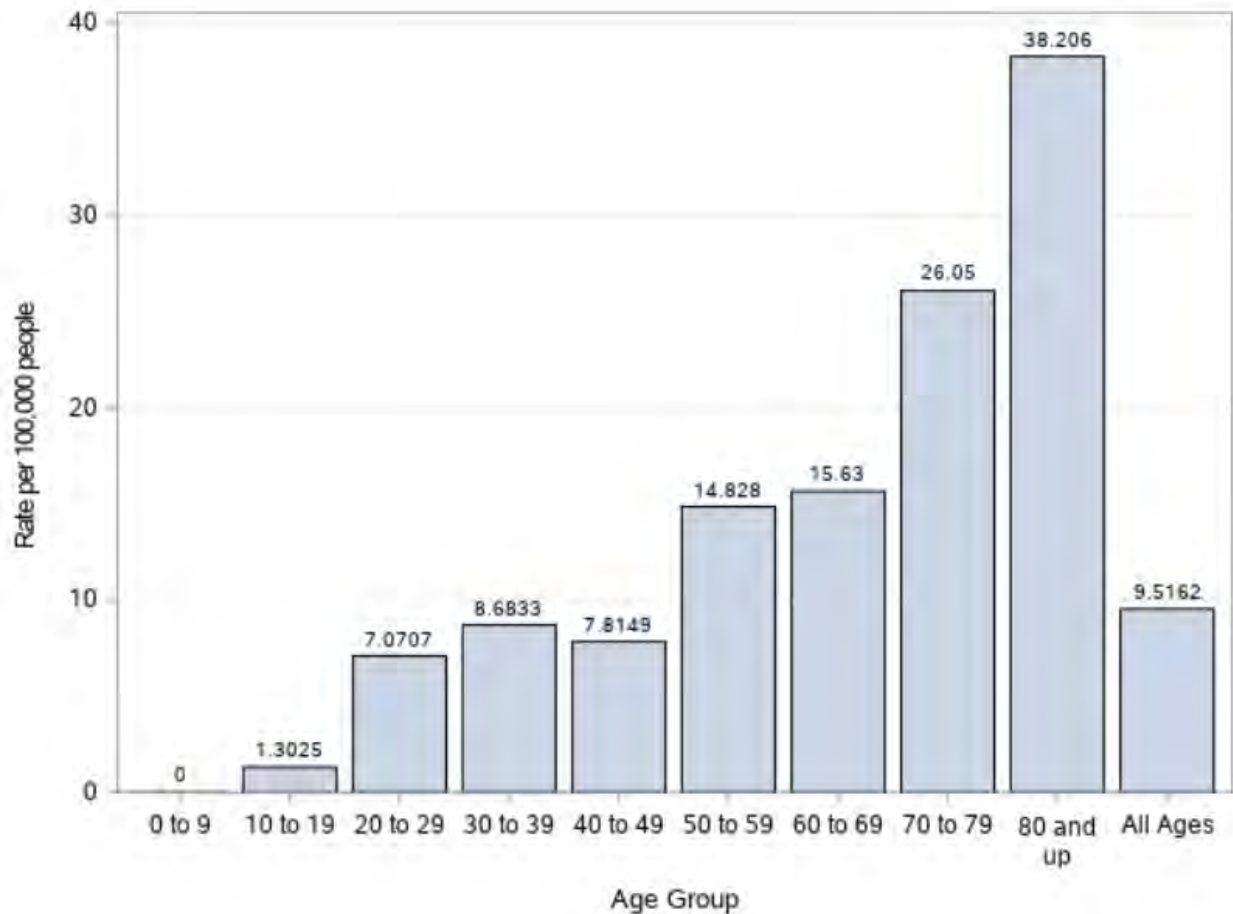
<sup>22</sup> Guns & Suicide. (2016, December 01). Retrieved from [https://www.hsph.harvard.edu/magazine/magazine\\_article/guns-suicide/](https://www.hsph.harvard.edu/magazine/magazine_article/guns-suicide/)

<sup>23</sup> Santa Clara County Office of the Medical Examiner/Coroner and SAS University Edition



poisoning.<sup>24</sup> Male firearm suicides are much more common than female firearm suicides due to the use of more lethal means.

Figure 5: Santa Clara County Firearm Suicide Death Rates by Age (2014-2017)<sup>25</sup>



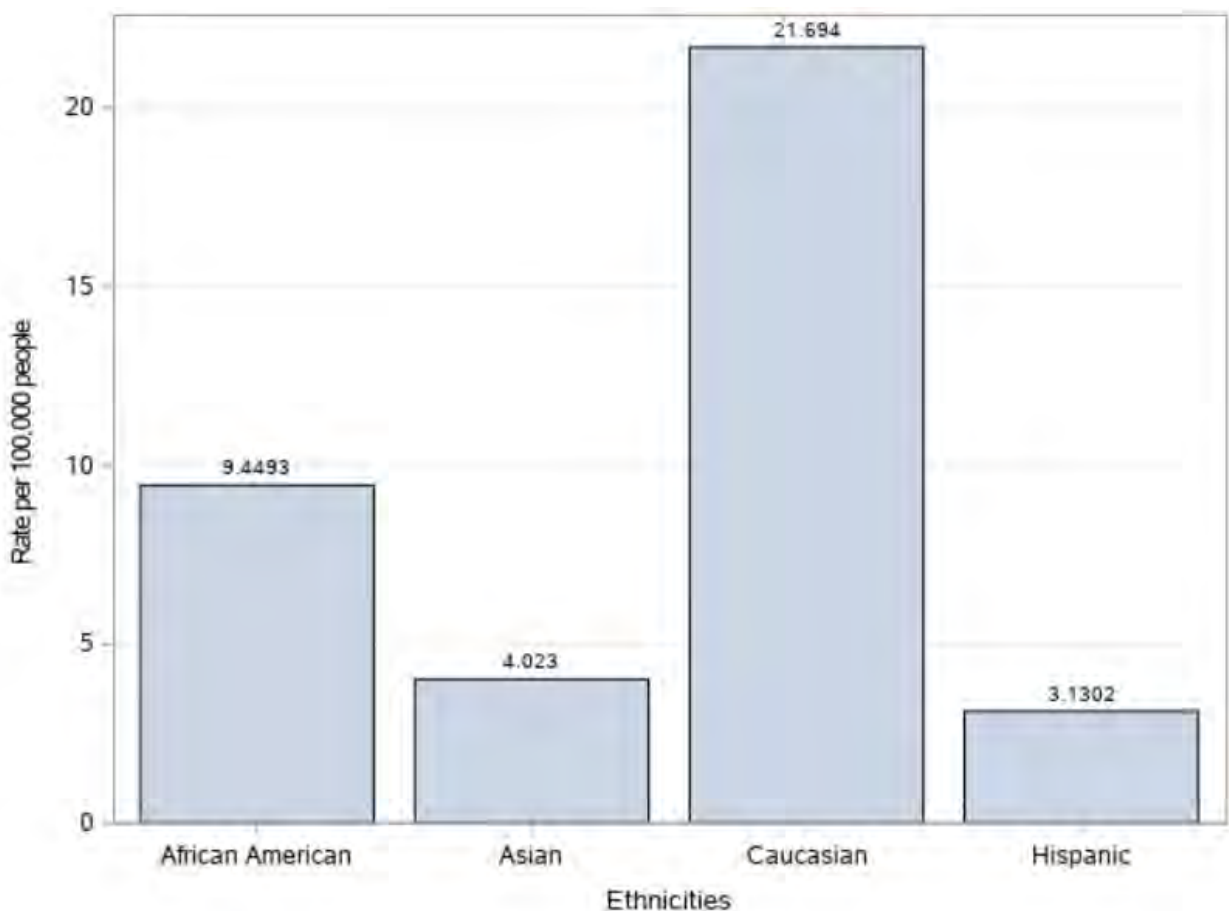
From Figure 5, the firearm suicide rate for the 80 and up age group was the highest: 38.206 per 100,000 County residents. The firearm suicide rates per 100,000 County residents were also high for ages 70 to 79, 60 to 69 and 50 to 59. Even though there appears to be a considerable difference between the rate for the 70 to 79 and the 80 and up age groups, this difference is not statistically

<sup>24</sup> Brady Campaign to Prevent Gun Violence. (n.d.). Retrieved July 26, 2018, from <http://www.bradycampaign.org/the-truth-about-suicide-guns>

<sup>25</sup> Santa Clara County Office of the Medical Examiner/Coroner and SAS University Edition

significant. However, there is a statistically significant difference between the 80 and up age group and 60 to 69 age group, and the 80 and up and 50 to 59 age groups. Nationally, firearm suicide rates also increase significantly with age and are highest among adults 70 and older.<sup>26</sup>

Figure 6: Santa Clara County Firearm Suicide Death Rates by Ethnicity (2014-2017)<sup>27</sup>



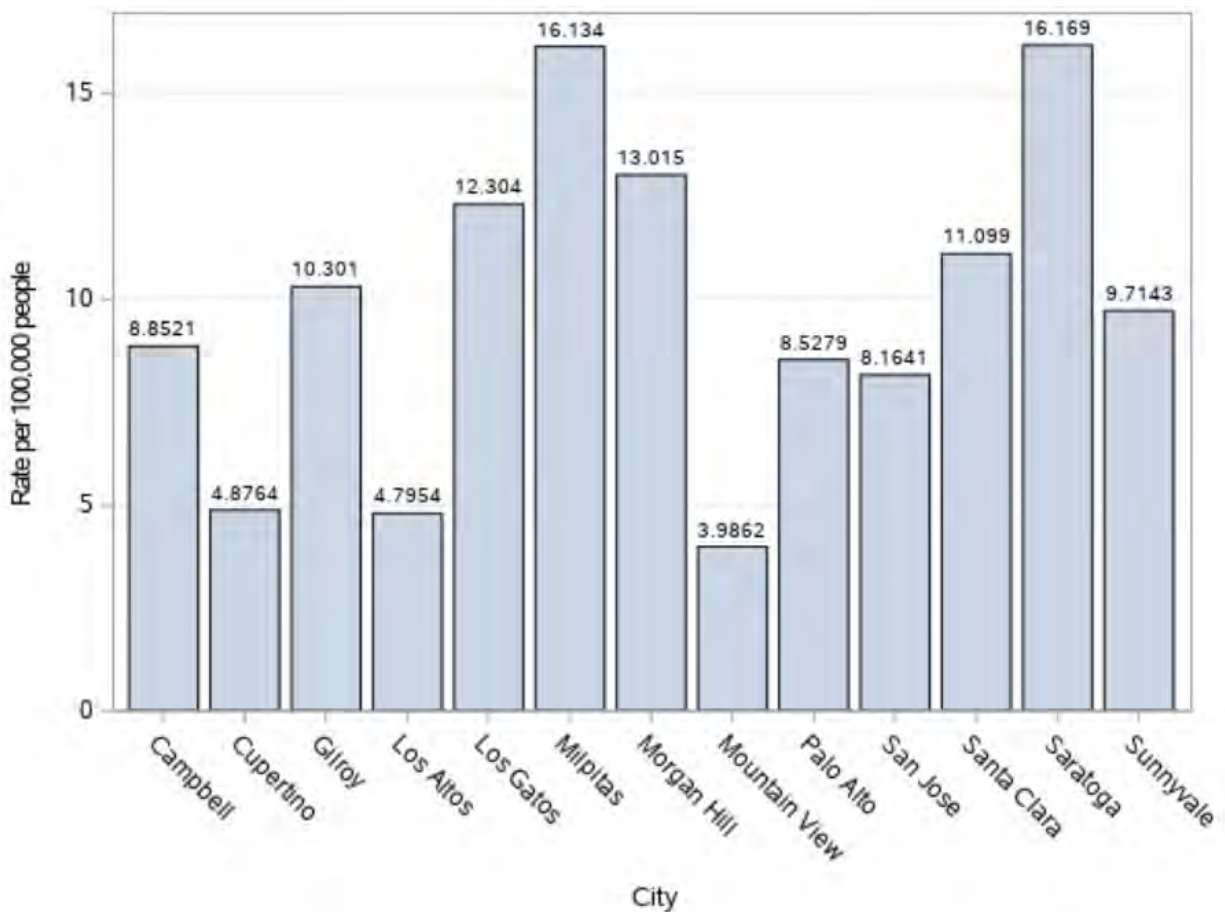
From Figure 6, the firearm suicide death rates for Caucasians was highest: 21.694 per 100,000 County residents. Although there appears to be a large difference between the firearm suicide rates of Caucasians and African Americans, this difference is not statistically significant. However, there is a significant difference between the Caucasian and Asian firearm suicide rates. Nationally,

<sup>26</sup> Ibid., p 12.

<sup>27</sup> Santa Clara County Office of the Medical Examiner/Coroner and SAS University Edition

white men make up 79% of all firearm suicide victims in the U.S. while people of color account for less than 8% of firearm suicide victims.<sup>28</sup>

Figure 7: Santa Clara County Firearm Suicide Death Rates by City  
(2014-2017)<sup>29</sup>



As demonstrated by Figure 7, the firearm suicide death rates in Milpitas and Saratoga were highest: approximately 16 per 100,000 County residents. There only appears to be a significant difference between the firearm suicide rates of Milpitas and Mountain View. Nationally, states with high levels of firearm ownership tend to have high levels of suicide. For example, the five states with the highest rates of

<sup>28</sup> Brady Campaign to Prevent Gun Violence. (n.d.). Retrieved July 26, 2018, from <http://www.bradiycampaign.org/the-truth-about-suicide-guns>

<sup>29</sup> Santa Clara County Office of the Medical Examiner/Coroner and SAS University Edition

firearm suicide (Alaska, Wyoming, Montana, Idaho, Oklahoma) all have adult firearm ownership rates 12 to 30% higher than the national average (32.6%).

### *Suicide Risk Factors*

Suicide is a complex phenomenon. There are always multiple risk factors that converge in a person's life that create a culmination of acute risk. The behavioral threat assessment is used as a tool to identify and intervene with individuals who have communicated threats of violence or engaged in behavior that clearly indicates planning or preparation to commit a suicide.

The current method for predicting the level of suicide risk is not effective according to two meta-analyses of the last forty years of suicide risk research. In the first paper, author Matthew Large and his group in Australia looked at the last 40 years of suicide risk assessment research. They found that 95% of patients will not die by suicide at all and that 50% of patient suicide came from the lower risk categories.<sup>30</sup> They also found that predicting suicide by combining multiple risk factors was not much better than using a single risk factor.<sup>31</sup>

The second paper was a meta-analysis of suicide risk factors and risk assessment scales in people who had already harmed themselves. In this analysis, the four strongest risk factors were previous episodes of self-harm, suicidal intent, physical health problems and male gender. These risk factors are so common that they are of no help in assessing suicide risk. According to the National Institute of Mental Health, complex and deep-rooted problems such as depression and other mental disorders, drug and alcohol abuse, family violence, and a family history of suicide often shadow victims.<sup>32</sup>

Many studies have indicated that states with higher gun ownership rates also tend to have higher firearm suicide rates. A 2008 study by Miller and David Hemenway, authors of the book *Private Guns, Public Health*, found that rates of firearms suicides in states with the highest rates of gun ownership are 3.7 times

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<sup>30</sup> Murray, D. (2017, March 28). Suicide Risk Assessment Doesn't Work. Retrieved from <https://www.scientificamerican.com/article/suicide-risk-assessment-doesnt-work>

<sup>31</sup> Ibid.

<sup>32</sup> Guns & Suicide. (2016, December 01). Retrieved from [https://www.hsph.harvard.edu/magazine/magazine\\_article/guns-suicide/](https://www.hsph.harvard.edu/magazine/magazine_article/guns-suicide/)

higher for men and 7.9 times higher for women, compared with states with the lowest gun ownership, though the rates of non-firearm suicides are about the same.

<sup>33</sup> Another study by the Harvard School of Public Health (HSPH) was conducted of all 50 U.S. states. Based on survey of American households conducted in 2002, HSPH Assistant Professor of Health Policy and Management Matthew Miller, Research Associate Deborah Azrael and colleagues at the School's Injury Control Research Center (ICRC) found that in states where gun were prevalent as in Wyoming, where 63 percent of households reported owning guns and rates of suicide were higher.<sup>34</sup> The inverse was also true: where gun ownership was less common, suicide rates were also lower.<sup>35</sup>

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<sup>33</sup> Ibid.

<sup>34</sup> E. (2017, July). *Data behind Extreme Risk Protective Order Policies: A look at Connecticut's Risk-Warrant Law*. Retrieved August 3, 2018.

<sup>35</sup> Ibid.

*California Gun Safety and Gun Violence Prevention Laws*

California has some of the strictest gun safety policies in the United States. According to Gifford's Law Center, California:

- “Requires all gun sales to be processed through a licensed dealer, requiring a background check;
- Requires gun dealers to obtain a state license;
- Bans most assault weapons and .50 caliber rifles, and restricts the sale, transfer, manufacture, and possession of large capacity ammunition magazines;
- Requires all firearms purchasers to obtain a Firearm Safety Certificate, after passing a written test;
- Regulates gun shows in a comprehensive manner;
- Limits purchases of new handguns to one per person per month;
- Prohibits the sale of unsafe handguns that do not incorporate mandatory design safety elements;
- Imposes a ten-day waiting period prior to the sale or transfer of a firearm;
- Maintains permanent records of firearm sales;
- Gives local law enforcement discretion to deny a license to carry a concealed weapon; and
- Gives local governments authority to regulate firearms and ammunition, although the state legislature has expressly removed this authority in certain areas.”<sup>36</sup>

In addition to the policies above, in California, purchase or possession of firearms is prohibited for people who have been admitted to a mental health facility, are receiving patient treatment, and have been determined to be a danger to self or others by the attending health professional.<sup>37</sup>

<sup>36</sup> California. (n.d.). Retrieved July 24, 2018, from <http://lawcenter.giffords.org/gun-laws/state-law/california/>

<sup>37</sup> Ibid.



In 2014, California established a Gun Violence Restraining Order (GVRO) law which allows family members to petition a court to temporarily remove firearms from a loved one who is found to pose a clear danger to the public or their own safety. There are three types of gun violence restraining orders. There is the temporary emergency order, which is for an immediate threat, and it is only for law enforcement.<sup>38</sup> Next, there is the temporary ex parte, which is a formal application made in court by law enforcement or family/housemates.<sup>39</sup> Lastly, there is the order after notice/hearing which is a one year order after a full hearing.<sup>40</sup> In California, a GVRO can be sought by spouses, parents, grandparents, siblings, children, stepparents, stepchildren, domestic partners or roommates and other household members who have lived with the individual of the petition within the last six months.

**The Temporary Emergency GVRO** last 21 days and may be requested by law enforcement at any time of day through a verbal or written request to a local Superior Court judicial officer. The officer must show through testimony or documented evidence that there is “reasonable cause” that the subject poses a danger to themselves or others. Once the GVRO is served, the subject must immediately surrender all firearms and ammunition in his or her possession.

**The Temporary Ex Parte Order** lasts up to 21 days and is available to law enforcement, immediate family members or a household member. The petition may only be filed during normal court hours, and it is filed with the Superior Court clerk in the county in which the subject resides. A judicial officer must find that the subject poses “a significant danger in the near future” of injury to self or others by having a firearm in his or her possession. The subject must relinquish all firearms to the officer, but if not the subject would then have 24 hours to turn their firearms and ammunition in to a local law enforcement agency. A hearing will be scheduled within 21 days from the date on the order and it will give the subject an opportunity to respond.

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<sup>38</sup> Gun Violence Restraining Orders. (n.d.). Retrieved July 26, 2018, from <http://www.courts.ca.gov/33961.htm>

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

**A One Year GVRO** may be obtained after the subject is served a notice of the ex parte order to determine if a one-year GVRO is necessary. During the hearing the restraining party has the opportunity to respond to the order and the court will review the same types of evidence it used when considering the ex parte order. The court may also review testimony from the petitioner and any witnesses which they produce. A one-year GVRO may be renewed up to three months before it expires.<sup>41</sup>

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<sup>41</sup> How to Get a GVRO. (n.d.). Retrieved August 5, 2018, from <https://speakforsafety.org/obtain-a-gvro-family-household/>

*Local Suicide Prevention Programs and Efforts*

Santa Clara County Office of the Medical Examiner/Coroner shared that after a person takes his or her life, immediate family members receive a brochure with the suicide and crisis hotline and places to go to for support including the Bill Wilson Center and Kara Grief Support. A family history of suicide is a significant suicide risk factor.<sup>42</sup> Therefore, it is essential that family members receive the services and support they need after a loved one dies by suicide.

One of the services provided by the Bill Wilson Center is the Center for Living with Dying, which provides emotional support to people dealing with grief and loss. The Center provides crisis intervention services as well as educational programs on grief and loss.<sup>43</sup> The Bill Wilson Center also provides mental health services for youth and their families. The Transition Age Youth Mental Health Services provides support for youth and young adults ages 16-24 residing in Santa Clara County who must have either MediCal insurance or no insurance at all to qualify. The Youth and Family Mental Health Services provides support for individuals up to age 21 and their families who have MediCal insurance as their primary insurance provider. There is also a 24-hour Young Adult Support Hotline that connects youth to mental health specialists who can respond in person. Kara Grief Support provides grief therapy for children, adolescents, adults, couples and families. In addition, Kara offers on-site crisis support services to schools, community organizations and businesses to help process their grief when a death has occurred.<sup>44</sup>

The Suicide Prevention Program also oversees the Santa Clara County Suicide & Crisis Hotline, which is available 24 hours and 7 days a week in both English and Spanish. Approximately 60 to 70% of calls from this hotline were female. This county hotline is also certified nationally, which means that if a Santa

<sup>42</sup> Violence Prevention. (2017, October 03). Retrieved July 20, 2018, from <https://www.cdc.gov/violenceprevention/suicide/riskprotectivefactors.html>

<sup>43</sup> Bill Wilson Center : Services : All Services : Centre for Living with Dying. (n.d.). Retrieved July 20, 2018, from <http://www.billwilsoncenter.org/services/all/living.html>

<sup>44</sup> Crisis Response. (n.d.). Retrieved July 20, 2018, from <https://kara-grief.org/services/crisis-response/>

Clara County resident calls the national hotline, his or her call will get rerouted back to the county hotline. The hotline is currently working to implement a crisis text line.

In addition to the resources for family members of descendants of suicide, there are numerous resources available to individuals who are contemplating suicide. For example, the Santa Clara County Suicide Prevention Program, which trains Suicide and Crisis Hotline volunteers, holds trainings to help those in crisis, conducts public education and awareness campaigns, works with schools and promotes safe and effective reporting on suicide.<sup>45</sup> One training that the program holds is the Question Persuade Refer (QPR) Online Suicide Prevention Training. This is a free online training available to anyone above the age of 18 who lives or works in Santa Clara County. QPR training teaches users about the warning signs of suicide, how to ask the suicide question, how to persuade someone in crisis to seek help, and how to refer them to resources. In addition to the online training, there is also the QPR Gatekeeper Training Class, which provides in person trainings of the same material. Other trainings include the QPRT Online Suicide Risk Assessment and Management Training for professionals responsible for the care and safety of patients at risk for suicidal behaviors, safeTALK Alertness Training for anyone over the age of 15 to become a suicide-alert helper, Suicide to Hope Training for participants working with people previously at risk and currently safe from suicide, Youth Mental Health First Aid Training designed for adults who regularly interact with youth and the Adult Mental Health First Aid Training.<sup>46</sup> Recently, the Suicide Prevention Program carried out a 10-month sports radio campaign encouraging adult men across the Bay Area to access mental health support. The Suicide Prevention Program is very passionate about preventing suicide in our community and to lead the way for other counties. They are focused on targeting community institutions such as churches and schools to build resilience and increase community support. They understand the difficulties of

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<sup>45</sup> Suicide Prevention & Crisis. (n.d.). Retrieved July 22, 2018, from <https://www.sccgov.org/sites/bhd/services/sp/pages/spc.aspx>

<sup>46</sup> Trainings. (n.d.). Retrieved July 22, 2018, from <https://www.sccgov.org/sites/bhd/Services/SP/Pages/SP-Trainings.aspx>

reducing access to lethal means at the city level, but they believe that providing data would convince advocates. The program is currently focused on training the local media to use safe terminology when covering suicide, which includes not using words such as “committing” because that would imply that suicide is a crime and therefore increase the stigma around mental health. Also, graphic descriptions, pictures or videos can lead to copycat suicides, which means people study the methods others have committed suicide and imitate that process.

NAMI (National Alliance on Mental Illness) Santa Clara County works to support, educate and advocate for the mentally ill and their families, and also to promote research, reduce stigma surrounding mental health, and to improve services by working with mental health professionals and families.<sup>47</sup> Some of its education programs include the Family-to-Family Education Program designed for families living with mental illness, NAMI Basics Program for parents and caregivers of minors with mental illness, Peer-to-Peer Program focusing on recovery, Provider Education Program for those whose job revolves around working with the mentally ill or their loved ones and the Peer PALS Program where a trained mentor is paired with someone needing support. NAMI also has support groups for individuals concerned about their loved ones. The staff members we talked to expressed the need to publicize the county hotline more. In the past, NAMI had a partnership with buses that would promote the hotline. However, it is costly to have these types of partnerships. The staff members indicated the need to emphasize gun safety not gun control in order to prevent controversy. They also informed us about the suicide prevention plans of five cities. NAMI staff were able to provide feedback on the suicide prevention hotline. The services that this organization offers are support, education and awareness.

The Santa Clara County Suicide Prevention Strategic Plan was adopted by the Board of Supervisors on August 24, 2010. The primary objective of this plan is to increase public awareness of suicide as a public health problem, promote policies and programs that prevent suicide at local, state, and federal level, and

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<sup>47</sup> About NAMI Santa Clara. (n.d.). Retrieved July 22, 2018, from <http://www.namisantaclara.org/about-nami/>

within different organizations, advocate for changes in legislation and policy and advocate prevention funding.<sup>48</sup>

Cities Palo Alto, Milpitas, Mountain View, Los Gatos, and Morgan Hill also have suicide prevention policies. The Palo Alto Suicide Prevention Policy, established on September 22, 2010, seeks to advance current strategies and best practices as designated by the Suicide Prevention Resource Center, a national agency promoting the national suicide prevention plan, and the California Suicide Prevention Plan. This policy promotes the planning, implementing and evaluating of suicide prevention and intervention strategies and encouraging mental health care. The Palo Alto policy will include training to identify those at risk and how to report suicide threats to the appropriate authorities. This policy seeks to advance current strategies, including parent education, youth outreach, mental health support of students, means reduction, youth mental health screenings, and grief support. The City Manager has a responsibility to establish a crisis intervention plan and procedures to ensure public safety and appropriate communications when a suicide occurs or an attempt is made in Palo Alto. The City Manager will also explore how this policy relates to the city's Emergency Crisis Plan.

The Milpitas Suicide Prevention Policy, adopted on June 19, 2018, advances the current strategies and best practices of the Santa Clara County Behavioral Health Services, National Council for Behavioral Health, NAMI, and World Health Organization. This policy will also educate employees and residents to better understand the causes of suicide, learn the appropriate methods for identifying those at risk and how to report threats of suicide or those showing signs of suicide to the appropriate family members or professional authorities. This policy will extend the strategies of public education, community outreach, mental health screenings, grief support, Mental Health First Aid classes, media response criteria, crisis response plan, mental health and suicide prevention resources. This policy will seek to develop and implement effective and relevant educational programs that promote health emotional and social

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<sup>48</sup> Policy. (n.d.). Retrieved July 26, 2018, from <https://www.sccgov.org/sites/bhd/Services/SP/Pages/SP-Policy.aspx>

development of residents that also addresses the understanding of coping skills, problem-solving skills and resilience as a means of suicide prevention. This policy calls for the development and implementation of a Crisis and Community Communication Plan to ensure public safety as well as the reporting of a suicide or attempted suicide to both the community and the media in a responsible way.

The Mountain View Suicide Prevention Policy, adopted December 7, 2010, provides for employee education, suicide prevention community education, and collaboration with schools and other local and regional organizations to prevent suicide. The anticipated outcomes of this policy include: training city staff to better understand the causes of suicide and learn appropriate methods for identifying those at risk and preventing suicide, promotion of suicide prevention and education concerning available mental health resources, collaboration to advance similar work promoted by local schools and other local and regional organizations, collaboration with Santa Clara County Mental Health Department, and standardizing public information sharing to align with suicide prevention recommended best practices.

The Los Gatos Suicide Prevention Policy, adopted on August 18, 2015, calls for employee education, and for all residents, institutions, businesses to work toward preventing suicides and creating a healthier and safer community.

The Morgan Hill Suicide Prevention Policy indicates that its city staff will work with Morgan Hill Unified School District employees and residents to gain a better understanding about the causes of suicide and to learn appropriate methods for identifying and preventing suicide. This will include training in identifying those at risk and how to report suicide threats to the appropriate familial and professional authorities. This policy advances current evidence-based strategies for public education, community outreach, mental health support, means restriction, mental health screenings, grief support safe messaging trainings with media, developing suicide crisis response plans, and periodic review of relevant data. Currently there is work to get policies from Gilroy, San Jose, and Sunnyvale.



*Local Gun Safety Programs and Efforts*

Within the Public Health Department, there is a Violence Prevention Program that initiated the East San Jose PEACE (Prevention Efforts Advance Community Equity) Partnership. This program consists of a group of residents and organizations working to prevent and address violence and trauma through comprehensive violence prevention efforts throughout three zip codes (95116, 95122, and 95127).<sup>49</sup> The goals of the program include decreasing violence and trauma that affects youth, families and the community, advancing relationships and influence equitable economic opportunities and investments. Currently, the PEACE partnership is working on gun safety and violence prevention.

On February 27, 2018 the Board of Supervisors voted 5-0 for a summit addressing gun violence proposed by Supervisor Cortese. The summit was held on April 28, 2018. The issues that were discussed included more extensive background checks for gun buyers, creating safer school campuses and addressing concerns about guns in the possession of people with mental health issues without stigmatizing those individuals. In this summit, firearm suicides were part of the discussion. However, the summit primarily revolved around de-stigmatizing the mentally ill.

On March 6, 2018 the Board of Supervisors voted 5-0 to ban the possession or sale of firearms on county property, including the fairgrounds, which typically hosts two gun shows a year, proposed by Supervisor Yeager.

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<sup>49</sup> Santa Clara County Community Summit on Firearms and Safety Booklet

## Methodology

Our research consisted mainly of data analysis, interviews, and online research. We used a data analysis software to examine the demographics of the county firearm suicide decedents. From this, we were able to better understand the demographics of the people who are most vulnerable to firearm suicides.

Our project covers two main issues: reducing access to firearms for individuals thinking of suicide and providing these individuals the resources they need. As a result, we conversed with staff members from various viewpoints. We talked to staff from the Office of the Medical Examiner/Coroner to understand the demographics of the individuals who committed suicide in the county and what occurs after a firearm suicide. We then spoke to the County Suicide Prevention Program and NAMI staff because these two programs are both focused on providing support to the mentally ill. We were able to identify the county resources that are available to the mentally ill. Furthermore, we talked to staff from the District Attorney's Office so we would get a legal perspective of gun safety. Lastly, we talked to staff from the Public Health Department to understand gun safety from a public health perspective.

During each conversation, we asked the interviewees what policies they would like to see implemented in our county. Based on the feedback and input, we then conducted our own research and followed up with additional questions.

## Findings

### *Absence of County Gun Safe Storage Policy*

Researchers have found that at least one-third of handguns are stored, loaded and unlocked and that most children know where their parents keep their guns—even if their parents think otherwise.<sup>50</sup> In a study by Baxley and Miller, among gun-owning parents who reported that their children had never handled their firearms at home, 22% of the children, questioned separately, said that they had. In addition, firearm suicides among youth ages 17 and under commonly involves using the firearms of family members, usually their parents. In 2010, 40% of youth between 15 and 19 years old who had committed suicide did so with a gun.<sup>51</sup>

Furthermore, a National Violent Injury Statistics System (NVISS) investigation studied firearm suicides among youths ages 17 and under occurring over a two-year period in four states and two counties found that 82% used a firearm belonging to a family member, usually a parent.<sup>52</sup> When storage status was noted, about two-thirds of the firearms had been stored unlocked. Among the remaining cases in which the firearms had been locked, the youth knew the combination or where the key was kept or broke into the cabinet.

Therefore, a firearm safe storage policy in the County is essential. This policy may help decrease the amount of youth firearm deaths. Current state law does not include any provisions requiring firearms be stored in the home in a manner that might deter or prevent theft. So far, only San Jose, Sunnyvale and San Francisco have safe storage policies.

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<sup>50</sup> Giffords Law Center's Annual Gun Law Scorecard. (n.d.). Retrieved August 5, 2018, from <http://lawcenter.giffords.org/scorecard/>

<sup>51</sup> Ibid.

<sup>52</sup> Youth Access to Firearms. (2013, January 09). Retrieved from <https://www.hsph.harvard.edu/means-matter/means-matter/youth-access/>

The San Jose ordinance requires gun owners to store firearms in a locked container or disabled with a trigger lock in their homes upon leaving their residences.

Ordinance no. 3027-13 from the city of Sunnyvale indicates that Sunnyvale has a slightly different version of a safe storage policy. Sunnyvale requires the firearm to be locked up or disabled with a trigger lock when not carried on the owner's person or in his or her immediate control and possession.

San Francisco's safe storage policy requires handguns to be either stored in a locked container or secured with a trigger lock when they are not carried by the owner. The National Rifle Association and individual plaintiffs sued in federal court to overturn San Francisco's safe storage law on Second Amendment grounds. The ordinance was upheld by both the district court and Ninth Circuit Court of Appeals because it does not prohibit a person from carrying an unlocked/loaded gun, and the safely stored gun can be accessed from a safe or enabled within a few seconds, therefore not placing a burden on the Second Amendment rights.

Out of these three safe storage policies, San Jose's policy seems to be the most reasonable. It can be difficult for the courts to determine whether a firearm is in the owner's "immediate control and possession," which is a part of Sunnyvale's policy. San Francisco's policy may increase the number of residents wearing weapons on their person when inside their homes, which poses a concern for the safety of police officers, firefighters, and others who might respond to the home during a public safety or medical emergency as well as other situations. Encouraging firearms owners to carry presumably loaded weapons on their persons at all times is likely to increase risks to county staff as well as neighboring residents and family members.<sup>53</sup>

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<sup>53</sup> San Jose Safe Firearm Safe Storage Ordinance

*Importance of Public Outreach in Gun Stores*

In 2011, the New Hampshire Firearm Safety Coalition (NHFSC) distributed posters and brochures to 67 retail gun shops in the state. In 2009 former gun shop owner Ralph Demicco was informed by NHFSC that three people in a space of six days purchased a gun and took their lives in his store. Therefore, Demicco decided to help with the Gun Shop Project. Demicco interviewed and asked gun shop owners if they were willing to participate in a program to hang posters in their shops and give out suicide awareness cards. The goal was to encourage customers to become alert to signs of crisis in friends or household members. About half (48%) of all New Hampshire gun shops are displaying suicide prevention materials, either brochures, posters, hotline cards or all three.<sup>54</sup>

Similarly, Vermont has a gun shop project that partners with the VT Department of Mental Health, the VT Suicide Prevention Center, a program of the Center for Health and Learning, the VT Suicide Prevention Coalition, leading organizations in the firearm owners' community, the Vermont Federation of Sportsmen Clubs, Inc., and Gun Owners of Vermont. They distribute materials to gun shops and ranges. Nearly half of all Vermont households have at least one gun.

Currently, Santa Clara County does not have a gun shop project where gun shops would be required to have posters and brochures about GVROs and resources available for people with suicidal ideations. The County Behavioral Health Department does distribute brochures and posters in local gun shops with these types of information. However, the Behavioral Health Department is having difficulty reaching many gun stores due to the lack of staff members in charge of distributing these resources, and so far they have reached out to five gun shops.

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<sup>54</sup> Training in Suicide Prevention, Intervention and Postvention. (n.d.). Retrieved August 6, 2018, from <http://www.theconnectprogram.org/>

*Insufficient Awareness of GVROs*

This year, the Santa Clara County District Attorney's Office began a campaign to increase the use of Gun Violence Restraining Orders (GVROs) in the County and beyond. Because the California GVRO law is new, there is very little data in California that tracks the correlation between GVROs and reduction in gun violence. However, there is data for Connecticut's risk-warrant law.

In the first 14 years of Connecticut's risk-warrant law (1999-2013) there were 762 risk-warrants issued, with an increasing frequency after the 2007 Virginia Tech shooting.<sup>55</sup> Police found firearms in 99% of cases and removed an average of seven guns per subject.<sup>56</sup> Research shows for every 10-20 risk-warrant issued, one life is saved.<sup>57</sup>

Fewer than 200 gun restraining orders were issued statewide and only 11 were issued in Santa Clara County throughout 2016 and 2017 (Figure 8). More people need to be aware of gun violence restraining orders because these can save lives. Even though GVROs were issued in the County, efficient tracking systems are not in place to determine if the GVROs are effective and if there is more that needs to be done to make them more effective and save lives.

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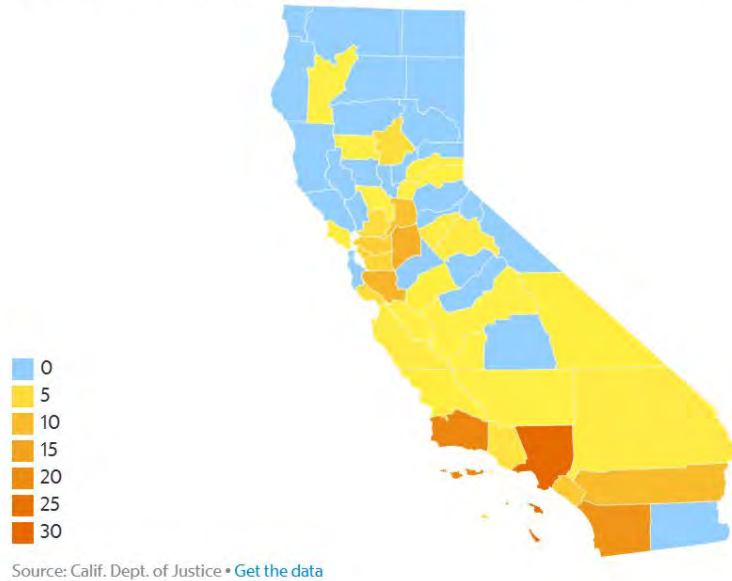
<sup>55</sup> Ibid., p 26.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

Figure 8: Gun Violence Restraining Orders Issued in 2016 and 2017 <sup>58</sup>

Gun violence restraining orders were issued in 32 counties in the first two years of their existence in California. Number issued by county in 2016 and 2017:



<sup>58</sup> Koseff, A. (n.d.). 'Best tool' to prevent gun violence is rarely used in California. Retrieved August 5, 2018, from <https://www.sacbee.com/latest-news/article206994229.html>



## Policy Recommendations

**County of Santa Clara Board of Supervisors should consider adopting a firearm safe storage policy.** Adopting a countywide safe storage policy would result in minimal added workload to officers since a violation of this ordinance would not be known unless law enforcement was called to a home on a report of a burglary, or officers recover a firearm after it has been used in a crime, or the firearm is owned by someone other than the owner and it becomes clear that the firearm had been stolen or lost. Santa Clara County Board of Supervisors can adopt a firearm safe storage policy similar to that of San Jose. Implementing a countywide safe storage policy can decrease the number of firearm theft, therefore decreasing the likelihood of children, teenagers, individuals who suffer from mental health issues, and persons subject to gun violence restraining orders from accessing firearms and ending their lives. Although implementing a countywide safe storage policy would only affect the people living in unincorporated areas, this policy can serve as a model to cities who do not already have a safe storage policy in place. Santa Clara County can even partner up with cities currently without safe storage policies to establish greater influence.

**Santa Clara County should implement a Gun Shop Project, requiring gun shops to have posters and brochures to gun stores.** These posters and brochures would provide websites, phone numbers such as the county suicide hotline, places to go to for people who are contemplating suicide and information on how to obtain a Gun Violence Restraining Order. People who go to a gun shop purchasing a gun with the intention of taking their lives may not know what resources are available to them, and the posters and brochures can inform them of the County resources.

**Santa Clara County should enhance targeted outreach to populations more vulnerable to suicide.** Since most of the people who end their lives are older Caucasian males, Santa Clara County can provide brochures or posters about Gun Violence Restraining Orders or provide trainings to help people observe warning

signs in senior facilities. This way, senior facility residents will be prepared to intervene if their friends, who may be around the same age, show signs of suicide.

**Santa Clara County should study the effects of GVROs in the county.**

The County of Santa Clara should collect data on whether a GVRO was obtained, the type of GVRO, how long it was in place, and if it was effective. From this data, the County would be able to determine whether GVROs were effective in preventing suicides and if additional efforts need to be employed to make the GVROs more effective.

## Conclusion

Firearm suicide is a serious issue within Santa Clara County, occurring across all ethnic, economic, social and age boundaries. Because suicide often occurs on impulse and firearm is a very lethal method of suicide, many firearm suicide attempters do not receive a second chance at life. Suicide should never be the only option for an individual, and more must be done to reduce access to lethal means and raise awareness about the resources available. Implementing a county wide safe storage policy, placing brochures or posters with resources in gun shops and senior facilities and providing trainings in gun shops may help curb this problem.

## Acknowledgements

In the ten weeks of research, we would like to thank all the county staff and partners who participated in our interviews and readily provided us with additional information. We would like to especially thank Supervisor Cindy Chavez for providing us with this wonderful opportunity to conduct and share our work. Below are specific individuals who aided our research:

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## References

A. (2013, May 28). New national strategy paves way for reducing suicide deaths. Retrieved from

<https://www.samhsa.gov/newsroom/press-announcements/201209101230>

About NAMI Santa Clara. (n.d.). Retrieved July 22, 2018, from <http://www.namisantaclara.org/about-nami/>

American Psychological Association (2013). *Gun Violence: Prediction, Prevention, and Policy*.

Bill Wilson Center : Services : All Services : Centre for Living with Dying. (n.d.). Retrieved July 20, 2018, from <http://www.billwilsoncenter.org/services/all/living.html>

Brady Campaign to Prevent Gun Violence. (n.d.). Retrieved July 26, 2018, from <http://www.bradycampaign.org/the-truth-about-suicide-guns>

California. (n.d.). Retrieved July 24, 2018, from <http://lawcenter.giffords.org/gun-laws/state-law/california/>

College of Liberal Arts. (n.d.). Retrieved from [https://www.umb.edu/academics/cla/faculty/kevin\\_wozniak](https://www.umb.edu/academics/cla/faculty/kevin_wozniak)

Crisis Response. (n.d.). Retrieved July 20, 2018, from <https://kara-grief.org/services/crisis-response/>

E. (2017, July). *Data behind Extreme Risk Protective Order Policies: A look at Connecticut's Risk-Warrant Law*. Retrieved August 3, 2018.

Epi-Aid on Youth Suicide in Santa Clara County. (n.d.). Retrieved July 24, 2018, from <https://www.sccgov.org/sites/phd/hi/hd/epi-aid/Pages/epi-aid.aspx>

Fact Sheets. (n.d.). Retrieved July 26, 2018, from <https://www.sccgov.org/sites/phd/hi/hd/Pages/fact-sheets.aspx>

Gilbride-West, J. (2016, October 10). World Mental Health Day: Positive Education in Luxembourg. Retrieved July 31, 2018, from <http://www.citysavvyluxembourg.com/lifestyle/world-mental-health-day-positive-education-in-luxembourg/>

Grinberg, E. (2017, February 18). Gun violence not a mental health issue, experts say, pointing to 'anger,' suicides. Retrieved August 3, 2018, from <https://www.reviewjournal.com/life/health/gun-violence-not-a-mental-health-issue-experts-say-pointing-to-anger-suicides/>

Guns and suicide: A fatal link. (2014, April 23). Retrieved August 3, 2018, from <https://www.hsph.harvard.edu/news/magazine/guns-and-suicide/>

Gun Violence: Prediction, Prevention, and Policy. APA Panel of Experts Report. (2013). *PsycEXTRA Dataset*. doi:10.1037/e502422017-001

Gun Violence Restraining Orders. (n.d.). Retrieved July 26, 2018, from <http://www.courts.ca.gov/33961.htm>

How to Get a GVRO. (n.d.). Retrieved August 5, 2018, from <https://speakforsafety.org/obtain-a-gvro-family-household/>

Huprich, S. K. (2016). Psychologists Should Help Curb the Wave of U. S. Gun Violence. *Journal of Personality Assessment*, 98(5), 447-448. doi:10.1080/00223891.2016.1204832

Inside Gun Shows - UC Davis Health. (n.d.). Retrieved from [http://www.bing.com/cr?IG=775B187A28FF43F2AC7BDBBDAE4CB5B8&CID=15D57502F80D6B16027E7937F9F06AFF&rd=1&h=AqZGmJyc3VCVx6aTCvzcDoo\\_cKBMRT18PlauCwFji9w&v=1&r=http://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGSexecsummweb.pdf&p=DevEx.LB.1,5068.1](http://www.bing.com/cr?IG=775B187A28FF43F2AC7BDBBDAE4CB5B8&CID=15D57502F80D6B16027E7937F9F06AFF&rd=1&h=AqZGmJyc3VCVx6aTCvzcDoo_cKBMRT18PlauCwFji9w&v=1&r=http://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGSexecsummweb.pdf&p=DevEx.LB.1,5068.1)

J. S. (2012, November 08). Why Suicides Are More Common in Richer Neighborhoods. Retrieved July 26, 2018, from

<http://business.time.com/2012/11/08/why-suicides-are-more-common-in-richer-neighborhoods/>

Kposowa, A. (2000, April). Retrieved July 31, 2018, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1731658/>

Lethality of Suicide Methods. (2017, January 06). Retrieved July 26, 2018, from <https://www.hsph.harvard.edu/means-matter/means-matter/case-fatality/>

Linehan, PhD, et al., M. M. (2006). Two year randomized controlled trial and follow-up of dialectical behavior therapy vs therapy by experts for suicidal behaviors and borderline personality disorder [Scholarly project]. Retrieved August 6, 2018.

Murray, D. (2017, March 28). Suicide Risk Assessment Doesn't Work. Retrieved from <https://www.scientificamerican.com/article/suicide-risk-assessment-doesnt-work/>

National Center for Health Statistics. (2017, March 17). Retrieved August 4, 2018, from <https://www.cdc.gov/nchs/fastats/suicide.htm>

Owens, D. (2002). Fatal and Non-Fatal Repetition of Self-Harm. *British Journal of Psychiatry*. Retrieved July 26, 2018.

Policy. (n.d.). Retrieved July 26, 2018, from <https://www.sccgov.org/sites/bhd/Services/SP/Pages/SP-Policy.aspx>

Rehkopf, D. H., & Buka, S. L. (2006, February). The association between suicide and the socio-economic characteristics of geographical areas: A systematic review. Retrieved July 31, 2018, from <https://www.ncbi.nlm.nih.gov/pubmed/16420711>

Rodriguez-Cayro, K. (2018, June 15). This Is How 9 Countries Worldwide Treat Mental Health Issues. Retrieved from <https://www.bustle.com/p/what-does-mental-health-care-look-like-abroad-this-is-how-9-countries-treat-mental-illness-2885010>



Rosen, J. A., & Wolf, C. R. (2016). Special Issue On Mental Illness In The Family: Guest Editors Introduction. *Family Court Review*, 54(1), 5-8.  
doi:10.1111/fcre.12197

San Jose Firearm Safe Storage Ordinance

Santa Clara County Community Summit on Firearms and Safety Booklet

Santa Clara County Office of the Medical Examiner/Coroner

Suicide. (n.d.). Retrieved July 26, 2018, from  
<https://www.nimh.nih.gov/health/statistics/suicide.shtml>

Suicide Prevention & Crisis. (n.d.). Retrieved July 22, 2018, from  
<https://www.sccgov.org/sites/bhd/services/sp/pages/spc.aspx>

Suicide Statistics. (n.d.). Retrieved August 5, 2018, from  
<https://afsp.org/about-suicide/suicide-statistics/>

The Truth About Suicide & Guns. (n.d.). *Brady Campaign*. Retrieved August 4, 2018.

Trainings. (n.d.). Retrieved July 22, 2018, from  
<https://www.sccgov.org/sites/bhd/Services/SP/Pages/SP-Trainings.aspx>

Training in Suicide Prevention, Intervention and Postvention. (n.d.). Retrieved August 6, 2018, from <http://www.theconnectprogram.org/>

Violence Prevention. (2017, October 03). Retrieved July 20, 2018, from  
<https://www.cdc.gov/violenceprevention/suicide/riskprotectivefactors.html>

Youth Access to Firearms. (2013, January 09). Retrieved from  
<https://www.hsph.harvard.edu/means-matter/means-matter/youth-access/>

## ORDINANCE NO. 290, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL, ADDING CHAPTER 7 TO TITLE IV OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, WHICH CHAPTER REGULATES THE POSSESSION AND USE OF WEAPONS, AND PROVIDES PENALTIES FOR VIOLATIONS THEREOF.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION A. ADDING A NEW CHAPTER REGULATING THE POSSESSION AND USE OF WEAPONS.

The following provisions hereby are enacted as new law and added as Chapter 7 of Title IV of the Municipal Code of the City of Morgan Hill and shall be numbered and read as follows:

Section 1 Unlawful to Discharge Guns and Other Devices

No person shall discharge in the City any instrument or device of any kind, character or description which throws, discharges, propels or hurls bullets or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, or explosive force, without first having applied for and obtained a written permit therefor from the Chief of Police. Subject to review by and as specifically directed by the Council, the Chief of Police shall be the sole judge as to the desirability or necessity for issuing such permit which must be, in his judgment, for the protection of the applicant or in furtherance of the public welfare. The Chief of Police may also issue permits to hunt in sparsely populated areas within the City, when he is satisfied that in so doing it will not, in any way, endanger persons, animals or buildings and improvements. Such permits shall be issued upon payment of a fee of One Dollar (\$1.00) and shall be upon such conditions and for such length of time as the Chief of Police may determine.

Section 2 Notice of Sale of Weapons

Any person or business establishment engaged in the business of offering for sale any instrument or device described in Section 1 of this Chapter shall have posted in a conspicuous place in the place of sale a copy of this Chapter and shall deliver a copy of this Chapter to any purchaser of such instrument or device.

Section 3 Confiscation and Penalties

IV-7-3.01

Any instrument, device or article used or possessed in violation of the provisions of this Chapter is hereby declared to be a public nuisance and may be confiscated and possessed by a police officer of the City and turned over to the Chief of Police under the conditions set forth in this Section. If no complaint for violation of this Chapter is filed with-

Attachment: Ordinance No. 290 (1993 : Gun Violence Ordinance)



any conditions. If there is a conviction and 60 days have expired since the date of conviction, the same may be destroyed by the Chief of Police or returned to the person from whom it was taken upon such conditions as the Chief deems reasonable for the public welfare.

#### IV-7-3.02

Any person violating or causing or permitting to be violated the provisions of any section of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$500.00 or by imprisonment in the County jail not exceeding six months or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and be punishable as such hereunder.

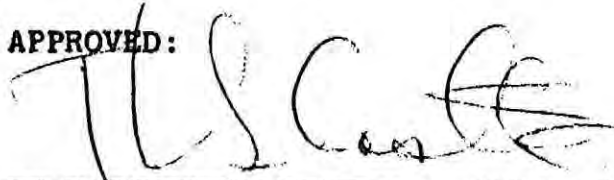
#### Section 4 Severability

Each of the Sections, Clauses and other provisions of this Chapter is hereby declared to be severable, and if any provisions shall be declared to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter which shall remain in full force and effect.

This Ordinance was re-introduced for first reading at a meeting of the City Council of the City of Morgan Hill held on the second day of December, 1970. It was finally adopted at a meeting of said City Council held on the 16th day of December, 1970, and said Ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCILMEN: Castle, Days, Galvan, Leonetti & Yinger
NOES:	COUNCILMEN: None
ABSENT	COUNCILMEN: None

APPROVED:



Mayor of the City of Morgan Hill

ATTEST



M. W. SOARES, City Clerk

#### CERTIFICATE OF THE CITY CLERK

I, MADGE W. SOARES, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 290, New Series, of the City Council of the City

**Michelle Bigelow**

---

**From:** MICHAEL BROOKMAN <mfbrookman@prodigy.net>  
**Sent:** Tuesday, October 2, 2018 9:53 AM  
**To:** Maureen Tobin  
**Subject:** Draft Anti Gun Ordinance

Hi, Maureen! Ordinance looks good, except that this will include Nerf guns, air soft guns, paintball guns, bows and arrows, crossbows. It might sound ridiculous, but the wording could be interpreted to include squirt guns like Super Soakers. It certainly includes automatic pitching and tennis ball machines! Was it the council's intention to be this vague? I can see it leading to reasonable challenge in court. I don't want to sound nitpicking, but this is codified law and should be more meticulous. My two cents worth. Thanks! Michael Brookman  
408.666.3231

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Ben C <ben.c109@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 1:12 PM  
**To:** Maureen Tobin  
**Subject:** Draft Anti Gun Violence Ordinance

Dear Ms. Tobin and all city council members,

These new proposed ordinances, although sound good, that's just it that's all they do is sound good. If you're solely just trying to make a statement against gun violence, mission accomplished. These are all current laws of the state of California. How they stop or decrease "gun violence" is yet to be seen. Why waste time having meetings and sending emails about these already current laws imposed on us that do no good. Maybe instead we should be talking about how we will stop an active shooter situation at our children's schools. Are proper measures being put into place to protect the future generations? Banning guns and certain ammo amounts in magazines doesn't help but only makes us more susceptible to being attacked and becoming victims ourselves. How about community outreach for the troubled youth that are committing these atrocities. Or gun safety programs because as they say an armed society is a polite society. We are the only ones that can put a stop to violence and sometimes violence needs to be implemented to stop violence. But before we reach that point if we can all come together as a community and embrace the outcast the troubled or violent person and rehabilitate them into our community where they have a place and a purpose then and only then will we truly know peace. So in closing statement new laws that are currently in place really don't help progress. Instead let us be the forefront of something more innovative that will be a demonstration of ideas new and old coming together for the benefit of all.

Sincerely  
Ben Corpuz

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** John Hogan <jwhogan@charter.net>  
**Sent:** Tuesday, October 2, 2018 10:40 AM  
**To:** Maureen Tobin  
**Subject:** Draft Gun Violence Ordinance

Dear Ms. Tobin,

I would like to respectfully voice my disagreement with the proposed ordinance. I do not think there is a pressing gun violence issue within Morgan Hill and this ordinance appears to be a solution in search of a problem.

The discharge permit fee, especially the requirement for 1 million dollars of insurance, is an onerous requirement that will prevent citizens from lawfully discharging firearms on their property. For example, sometimes citizens with property damage due to wild pigs or other animals will get a depredation permit from the sheriff. This ordinance will prevent any property owner from reducing crop or property damage.

The ban of 30 round magazines was already covered by Proposition 63 from 2016. This ordinance only opens up Morgan Hill to expensive litigation as it has been proven in multiple courts of law that local municipalities cannot supersede state or federal law. Most likely this ordinance cannot stand on its own after Morgan Hill has wasted money in courts.

California already has some of the strictest gun purchase and ownership requirements in the United States. There is nothing that this ordinance will do to reduce crime in Morgan Hill. The only people who will follow it are those law-abiding citizens who would not commit a crime anyway. This does nothing to deter those with criminal intent or the mentally deranged.

A better ordinance would give concerned citizens the opportunity to report people who may be a threat to public safety. There could be a temporary restraining order on the possession of guns until a thorough investigation can be conducted. This is common sense reform and could have prevented a number of shootings including the Parkland shooting.

I hope that the city council can reject this ordinance and instead focus on fixing pressing issues for Morgan Hill.

Thank you for reading my letter.

John Hogan  
jwhogan@charter.net

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Ginger Burrell <ginger@rkg.com>  
**Sent:** Tuesday, October 2, 2018 10:39 AM  
**To:** Maureen Tobin  
**Subject:** Feedback on Draft Firearms Ordinance

Ms. Tobin,

Thank you for the opportunity to comment on Morgan Hill's Draft Firearms Ordinance. I am glad to see the many protections included in the Ordinance, but I am wondering why the storage of firearms by licensed dealers was removed? These seem like common sense requirements and seem fair to expect of a dealer if they wish to do business in our city. In my opinion the Storage of Firearms provision should be restored.

Thank you.

~Ginger Burrell

17380 Pineau Court  
Morgan Hill, CA 95037

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**Michelle Bigelow**

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**From:** JOHN KRACHT <krachtjohn@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 11:54 AM  
**To:** Maureen Tobin  
**Subject:** Firearms Ord.

Maureen,

What **municipal** statistics justify this adjustment? It really appears to be a kneejerk reaction to the national news cycles about the Vegas shooting a year ago. There are lots of state and county laws and regulations. If you are going to add more and more restrictions you should be able to cite the **local** misconduct, by case number preferably, that would support such a belt-tightening. Or is this some sort of 'resistance ' protest of the Trump administration?

John Kracht  
16460 Rustling Oak Court

[Sent from Yahoo Mail for iPad](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Angela White <awhite@apr.com>  
**Sent:** Tuesday, October 2, 2018 11:32 AM  
**To:** Maureen Tobin  
**Subject:** Gun Control Ordinance

Hello Ms. Tobin,

I will start with: I am not a gun owner myself personally, nor anyone in my family owns a gun to my knowledge.

I have concerns with this Gun Violence Ordinance on several issues.

9.04.010

A. This measure is not about gun violence, this includes words like propel, hurl, missiles, means of elastic force, air pressure, vacuum etc. I object to the scope of restriction as this comes across as very controlling of items that are not considered guns. This addresses penalties for those that experiment with elastic power and other scientific means and has no place in a gun violence ordinance. This is not common sense; this is public restrictive and I am not in favor of more restrictions of individuals rights because in this wacky leftist world I can see this being used against regular citizens. If you are trying to stop someone using a multi magazine weapon, then lets stay on target. This is far too broad and I am concerned that government authority overreach will be used against regular citizens just doing their thing.

C. Proof of Liability of \$1M is excessive. Once again, an overreach of government power.

9.04.050

This doesn't make sense. First, someone who is a criminal is not going to let you know they have large capacity magazines. It's just not going to happen. Any criminal, as evidenced with other cities that have strict gun control, does not follow laws to begin with. If the government discovers these large capacity magazines you are giving them 90 days to get rid of them.

Who is writing these ridiculous laws? Criminals do crimes, criminals do not follow laws. None of these items in the Gun Violence Ordinance will stop any of those illicit crimes.

I am not a gun owner. My 6 adult children do not own guns nor do they want to. A criminal is not going to follow your laws. Why not spend money on serving the psychological needs of children in middle school and high school instead of chasing superfluous laws. There is no evidence anywhere that enacting stricter gun control stops crime.

I am against you spending money and efforts in enacting laws that do nothing.

Sincerely,

Angela White

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

Angela White, SRES

Alain Pinel Realtors Saratoga

408.821.6492

email: [awhite@apr.com](mailto:awhite@apr.com)

website: [www.apr.com/awhite](http://www.apr.com/awhite)

CalBRE# 01023792

When forwarding documents provided by others "I HAVE NOT AND WILL NOT VERIFY OR INVESTIGATE ANY INFORMATION SUPPLIED BY OTHERS".

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Jim <jim@jnkrause.com>  
**Sent:** Tuesday, October 2, 2018 12:40 PM  
**To:** Maureen Tobin  
**Cc:** jim@jnkrause.com  
**Subject:** gun control ordinance

**Importance:** High

Hi Maureen.

Question, does Morgan Hill have a gun problem that requires this ordinance?. If so, what are the statistics?

I can understand an ordinance if we have a known problem, but I am unaware of one at this point. Also, how do you defend yourself if the weapon is locked up?

Looking forward to your response.

Thanks,

Jim Krause

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** ken klamm <klamm869@gmail.com>  
**Sent:** Tuesday, October 2, 2018 10:03 AM  
**To:** Maureen Tobin  
**Subject:** Gun Control

I think we can all agree the gun laws are subject to interpretation that is a long standing problem with an argument that is going nowhere.

Instead of fighting it, I suggest embracing guns and instead have a trained professional in gun safety teach how to use, disarm, and responsibility of guns to our children in schools.

I have 3 children in 3 different schools in Morgan Hill and heard about a voluntary class being taught in Michigan and it was so demanding they had to open multiple classes for students and parents a like to attend.

Sincerely

Ken Klamm  
317.440.5985  
[klamm869@gmail.com](mailto:klamm869@gmail.com)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Anna Chase <gochaseanna@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 3:13 PM  
**To:** Maureen Tobin  
**Subject:** Gun law

So do I have this right ? A law abiding citizen like myself needs a permit and a million dollar insurance to have a gun in my home to protect my family and home? What about the criminals??? I doubt if they are going to get a permit to come in and harm my family and property!!!!!! This is ridiculous UnAmerican Anna Chase

Sent from my iPhone

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Allen Picchi <allenpicchi@msn.com>  
**Sent:** Tuesday, October 2, 2018 12:44 PM  
**To:** Maureen Tobin  
**Subject:** Gun Violence Ordinance

To Whom It Concerns,

What specifically, are you trying to achieve with this ordinance update. What problem are you trying to solve...

I am not in favor, nor do I support the text surrounding Section 9.04.050 Section B, regarding high capacity magazines that are in peoples' possession prior to the passing of California gun laws. Specifically, I would like to see the removal of #1&2 text.

Additionally, I would like to see text surrounding forfeiture and prosecution of those in possession of theses magazines **removed** from the ordinance, regardless of whether smaller capacity magazines are available or not.

I am also not in favor of expecting residences who obtain a permit to also obtain liability insurance.

Allen Picchi

Sent from [Mail](#) for Windows 10

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**Michelle Bigelow**

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**From:** Leah Quenelle <lquenelle@hotmail.com>  
**Sent:** Tuesday, October 2, 2018 2:31 PM  
**To:** Maureen Tobin  
**Subject:** gun Violence ordinance

Hello Ms. Tobin,

I was just wondering why the precautions regarding the storage of guns at a gun dealership were struck from the ordinance? Were they deemed redundant? I always wonder about that issue when I go by Lokey Firearms!

Thanks for your time and for being open to public comment.

Leah Quenelle

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** pierce@twinforces.com  
**Sent:** Tuesday, October 2, 2018 12:09 PM  
**To:** Maureen Tobin  
**Subject:** IF common-sense were common...

We wouldn't need lawyers. The road to hell is paved with good intentions, and this nonsense of an ordinance has just made me a die hard opponent of this measure, despite the fact that I'm not a gun owner myself, just an engineer that dislikes stupid.

Ok, so 9.04.010 is going to make rubber bands and paint ball guns illegal because it's so broad. Oh and nail guns. Good luck getting your roof fixed. Plus I suppose you would have to preemptively get the permit and pay your \$25 before discharging your rubber band, I'll get right on that. Oh and the chief of police has to review each permit? well that's one way to boost those "Coffee with a Cop" things.

9.04.040 would basically make the gun inaccessible for home defense, i.e. you can't keep it in your dresser drawer.

The large capacity magazine ban is either redundant to the state ban, or unconstitutional depending on how the court decides, since the injunction against the state ban is in place, seems stupid to try to do it again at the municipal level.

Oh, and the cops can confiscate my rubber bands at any time?

I'm not a gun owner, but nonsense like this makes me think I should buy a bunch of them and move to Montana...

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Andy Francke <afrancke@gmail.com>  
**Sent:** Tuesday, October 2, 2018 3:29 PM  
**To:** Maureen Tobin  
**Subject:** Input on Draft Anti-Gun Violence Ordinance

At a high level, I disagree with all of the actions the city council wishes to take. Philosophically, the idea that "we must do something - so anything will do" is a terrible place from which to legislate, and it's to the detriment of the City (following the State's example) that it wastes its own and the public's time on measures that are already adequately addressed elsewhere in the law.

California law *already requires* individuals to report thefts to local law enforcement. This law may evolve over time. Let's not waste the city's time on trying to keep up with that - and if that law is deemed improper by some court, why then let's not expose the city to litigating the same matter. There is no evidence that Morgan Hill is a hotbed of straw purchasing activity that would warrant special local handling of this matter.

California *already makes it a crime* to leave guns in an operable state where children can access them. "Locked container" as used in state regulations is not a safe or other child-proof system - it can be as broad as a bag with a padlock on it (which children could easily cut through with scissors). Morgan Hill does not need an independent set of regulations in this area.

"Large capacity" magazine possession *is already banned* by the state. There is no need to re-ban them - unless it is a purely symbolic gesture (I don't believe you are proposing to go door-to-door collecting them, and historically such bans have not resulted in anything but modest turn-in rates). Mostly this is about the ability to confiscate magazines when found in the possession of someone the police are already investigating for some other crime, and I would suggest the police already do a great job of hanging onto nearly anything they want that they've collected at a crime scene.

Finally there's the issue of exemptions for "peace officers." Why would we exempt the police from "safe" storage requirements or gun theft reporting? Police have children in their households, too, and one might argue are at more risk for loss given their names and addresses are public information.

There are many other things the City might occupy itself with - re-legislating (and at the risk of litigating in future) that which has already been established at the state level makes nobody in Morgan Hill safer, and isn't that what the point of this work was to be about?

Andy Francke  
 Morgan Hill

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Kirk Borovick <kirk\_borovick@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 10:52 AM  
**To:** Maureen Tobin  
**Subject:** Anti Gun Violence Ordinance

Am I reading this correctly that based on this ordinance that is not going to be illegal to fire a BB Gun or a bow an arrow without a permit and in order to get a permit I need a million dollars insurance policy per person on the premises.

Do I have this correct?

Please let me know when I also need to turn in my kitchen knives.

Please let me know how to partition against this. I believe in common sense gun laws like the 30 day wait period. I don't believe not letting my kid target practice with a BB gun or a bow and arrow is common sense but fear based laws.

Thanks for your time.

Kirk Borovick  
[kirk\\_borovick@yahoo.com](mailto:kirk_borovick@yahoo.com)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Chris McKie <chris@safersecond.org>  
**Sent:** Tuesday, October 2, 2018 10:11 AM  
**To:** Maureen Tobin  
**Subject:** Anti Gun Violence Ordinance Support

Hi Maureen. I am the Executive Director of a new nonprofit, A Safer Second, whose mission is to support Second Amendment tenets balanced by much needed common sense initiatives that improve public safety and aid law enforcement.

Currently I'm in Washington D.C., but I live in Morgan Hill, and am very pleased to see the city move forward on an anti gun violence ordinance.

After reading the draft, which I like, especially the portion prohibiting large magazines, I'd like to see if there has been any interest or support in adding a section that also bans bump stocks - a modification that turns a gun into a machine gun like weapon of mass murder?

I will be back in Morgan Hill on Friday, Oct 5th and would be more than happy to help in any way to see this ordinance pass. If there is anything our organization can do, please let me know.

Sincerely,  
Chris McKie

Chris@SaferSecond.org  
www.SaferSecond.org  
408-630-9843

Get [Outlook for iOS](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Bill Moher <bmoher@sbcglobal.net>  
**Sent:** Tuesday, October 2, 2018 3:26 PM  
**To:** Maureen Tobin  
**Subject:** Anti Gun Violence Ordinance

Maureen,

This proposed ordinance sounds a lot like the proverb "The road to hell is paved with good intentions."

The motivation for this ordinance is good and well intended. It would make Morgan Hill a caring, good city. However, what is the budget cost of feeling good? Who will enforce this ordinance, the Police Department and how will it be accomplished? Also has the budget cost of defending this ordinance been evaluated? It will surely be challenged in the courts up to and including the federal court system.

Were the city council to pass this ordinance, however written, I feel the individual Council members could feel the heat, so to speak, at the polls at the next election.

My suggestion if the City intends to move forward on this issue would be to place this issue on the ballot during a general election with pre-election "for" and "against" statements communicated for voter review.

Consider that Morgan Hill has had an ordinance for some time prohibiting the placement of basketball and other sports equipment on city streets for personnel and driving safety purposes. While the Police Department can visibly observe sports equipment from police vehicles, this ordinance for all intent and purposes is enforced only when individual residents complains to the City.

My point is don't pass an ordinance you don't intend to fully enforce and/or cannot afford from a City budget standpoint to enforce.

Bill Moher

1635 Martinez Way  
 Morgan Hill

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** robertbobwolford@aol.com  
**Sent:** Tuesday, October 2, 2018 11:48 AM  
**To:** Maureen Tobin  
**Subject:** Anti-Gun Violence ordinance

I have read the purposed ordinance, and I didn't see any consequences, fines, jail time, or teeth in the ordinance to punish an offender.

If your thinking is that people will willingly go along with this ordinance without any penalty for disobedience, you are delusional.

Only law abiding citizens will obey this ordinance. Criminals will ignore this. That's why they are called criminals. Only stop and frisk will partially find criminals carrying weapons. This however, is not politically correct. So, we will pay the consequences.

Without any penalty or consequence, criminals will be repeat offenders.

This appears to be a "feel good" ordinance so the city council members and other city officials can say, " see, we are doing something", continue to vote for me.

Thank you for the opportunity to express myself.

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



## Michelle Bigelow

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**From:** Darcy Foster <fosterd@mhusd.org>  
**Sent:** Tuesday, October 2, 2018 11:11 AM  
**To:** Maureen Tobin  
**Subject:** Anti-Gun Violence

I support the draft ordinance to curtail potential threats through tighter provisions of the law. (Yes, I even read the whole thing!)

Darcy Foster  
 Spanish & World History Teacher [fosterd@mhusd.org](mailto:fosterd@mhusd.org)

Advisor to clubs: Key Club International; Reach Out and She's the First

CFT Safe & Non-Violent Schools Committee

Live Oak High School: **A California Gold Ribbon School**

1505 E. Main Street  
 Morgan Hill, CA 95037  
 1.408.201.6100 x 40238

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Daniel Carlile <daniellcarlile@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 10:48 AM  
**To:** Maureen Tobin  
**Subject:** Anti-gun

I am in favor of anti-gun laws!!!

Sent from my iPhone

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** D. Muirhead <doug.muirhead@stanfordalumni.org>  
**Sent:** Tuesday, October 2, 2018 11:48 AM  
**To:** Maureen Tobin  
**Cc:** Rene Spring  
**Subject:** comment on draft projectile ordinance

This ordinance claims to deal with  
 FIREARMS STORAGE, REQUIRE THE REPORTING OF  
 FIREARMS THEFT, AND PROHIBIT LARGE CAPACITY MAGAZINES

It is actually government overreach, lacks due process protections, and denies a valid application through unreasonable requirements.

### 1) Government overreach

[Text] 9.04.010 - Discharge--Permit required--Fee.

A. ... any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge ...

[comment]

While ostensibly dealing with "firearms", this also includes devices that I played with as a child and as an adult: peashooter, slingshot, BB gun, and crossbow.

### 2) Lacks due process protections

[Text] 9.04.010 - Discharge--Permit required--Fee.

B. Subject to review by and as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity of such permit ...

[comment]

I see an arbitrary decision by an appointed City official with no documentation and no appeals process.

### 3) Denies a valid application through unreasonable requirements [Text] 9.04.010 - Discharge--Permit required--Fee.

C. Applicants for such permit shall provide the following:

2. Proof of liability insurance in the amount of one million dollars per occurrence

[comment] Justify that \$1M is not just another hurdle used to deny a valid application.

### 4) Wrong year

SECTION 3. Effective Date;

[text] 2017

[comment] 2018

City clerk certification

[text] 2016

[comment] 2018

**Michelle Bigelow**

---

**From:** Art Cohen <alouis7@gmail.com>  
**Sent:** Tuesday, October 2, 2018 2:54 PM  
**To:** Maureen Tobin  
**Subject:** re: Draft Anti Gun Violence Ordinance

Hi Maureen:

I'm writing to let you know that I support the Anti Gun Violence Ordinance being proposed.

Regards,

-Art

1090 W. Dunne. Ave.

Morgan Hill, CA 95037

--

This message including its enclosures contains confidential information intended only for the use of the addressee(s) named above and may contain information that is legally privileged. If you are not the addressee, or the person responsible for delivering it to the addressee, you are hereby notified that reading, disseminating, distributing or copying this message is strictly prohibited. If you have received this message by mistake, please immediately notify us by replying to the message and delete the original message and its enclosures immediately thereafter. Thank you.

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** afroumis <afroumis@aol.com>  
**Sent:** Tuesday, October 2, 2018 12:57 PM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

I am strongly in favor of anti violence initiatives but also support the right to bear arms, as the constitution advocates. Being a Vietnam veteran, I support our rights to defend ourselves. There is no place for gun violence and senseless attacks. As long as criminals have guns, I want the ability to defend my family and loved ones!

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** City of Morgan Hill <maureen.tobin@morganhill.ca.gov>  
**Date:** 10/2/18 9:31 AM (GMT-08:00)  
**To:** afroumis@aol.com  
**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance



## Provide Your Input on the Draft Anti Gun Violence Ordinance

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Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

Comments can be submitted directly to Maureen Tobin through Friday, October 5, 2018.

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## Michelle Bigelow

---

**From:** fam.grzan@charter.net  
**Sent:** Tuesday, October 2, 2018 12:48 PM  
**To:** Maureen Tobin  
**Subject:** RE: Provide Your Input on the Draft Anti Gun Violence Ordinance

I do not find the Ordinance sufficient. It is vague and ambiguous.

### Section

"9.04.010 - Discharge—Permit required—Fee. A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.

1. The term fire arm is not mentioned
2. Too ambiguous
  - a. The term discharge is not defined, and used twice with two different meanings in the same sentence.
  - b. According to this even a "nerf gun" would require a permit.
  - c. According to this even a "play bow and arrow" would require a permit.
  - d. A spit ball blown out of a straw would require a permit
  - e. A home made sling shot would require a permit?
  - f. What is a licensed shooting range? Who licensed?
3. It is only the Police Chief who can approve or can it be a designated official
4. How long does the police chief have to approve. Weeks, months, years?
5. What is the public's recourse if the chef does not approve or approve in a timely manner
6. Chief may approve a lifetime?
7. The permit is not subject to renewal?
8. Where is fire arm defined? Why is it not listed in section 9.04.010?
9. Why a million dollars per occurrence?
10. If my hand held potato discharge device is lost or stolen, I do not have to report it as it is not a fire arm?

Anything other than a firearm that can cause harm does not have to reported if lost or stolen.

Mark Grzan  
 680 Alamo Drive  
 Morgan Hill, CA 95037  
 408.778.7816  
[fam.grzan@charter.net](mailto:fam.grzan@charter.net)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**From:** City of Morgan Hill <maureen@mhcrc.ccsend.com> **On Behalf Of** City of Morgan Hill

**Sent:** Tuesday, October 2, 2018 9:31 AM

**To:** fam.grzan@charter.net

**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance



## Provide Your Input on the Draft Anti Gun Violence Ordinance

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-

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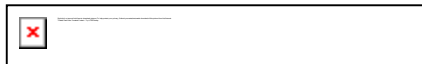


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Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

**From:** John Weberg <grizzlyau@gmail.com>  
**Sent:** Tuesday, October 2, 2018 12:24 PM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

This is an absolute idiotic ban - this will not stop any criminal from doing what they are going to do - The only people you are hurting is the community - Cities such as Chicago which have the toughest gun laws in the country have the most gun violence. this is not the answer. Enforce our current gun laws, especially the ones dealing with mental instability and get the medical community to do what they are supposed to in working with the FBI and the current back ground checking to ensure that these people do not have access to the guns. The Criminals are not going to abide by this. This is just another attack on our right to bear arms.

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



## Provide Your Input on the Draft Anti Gun Violence Ordinance

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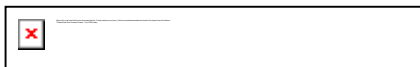


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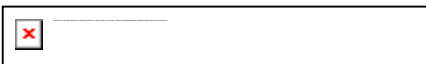
Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

**From:** Jim Sergi <jimsergi@gmail.com>  
**Sent:** Tuesday, October 2, 2018 12:04 PM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

Stupid

On Tue, Oct 2, 2018, 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



## Provide Your Input on the Draft Anti Gun Violence Ordinance

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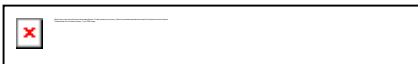
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## Michelle Bigelow

---

**From:** Aragon, Lisa <Lisa.Aragon@anritsu.com>  
**Sent:** Tuesday, October 2, 2018 11:59 AM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

Hi Maureen,  
 I'd like to submit a feedback to the proposed ordinance.

I appreciate the effort the City of Morgan Hill is attempting to help ensure a safe environment. However, I think the actions in this ordinance are somewhat misdirected. I believe an Ordinance as stated in the Title 9 "Public Peace, Morals and Welfare". Should have more specific actions towards People and their abuse (or lack of ) Morals and Welfare of others. Nothing in this ordinance related to holding the public responsible for their poor choices, bad behaviors, lack or morals that affect the welfare of the community. I think there is room for improvement.

If I understand the "Discharge Permit" section, a permit for purposely discharging a firearm would be required. How does this work in conjunction with the Santa Clara County Concealed Carry Weapons (CCW) Permit? If someone has a CCW, then it seems they should already have the proper documentation/permit to discharge. Is this statement indicating that anyone with CCW Permit also has to obtain a Morgan Hill Discharge Permit? The county permit for CCW should overrule and be the only permit necessary. Can this be clarified and if necessary, a statement to the exception be added. Exception statement being "E. Exception provided to Santa Clara Country Issued Concealed Carry Weapons (CCW) Permit holders". Otherwise, it's redundant and just added bureaucracy.

In addition, I'm not clear what the intended purpose of the section is – to keep farmers from shooting coyotes? To keep bad-guys from shooting a hand-gun during New Year's celebration? An ordinance like this is not going to have bad-guys obtain permits, but it will require the good-guys (people who need to discharge under normal circumstances) to get permits. This seems to be bureaucracy for bureaucracy sake.

Why does the City need the Ordinance on banning large-capacity ammunition magazines when it is already a State Law?

Senate Bill 1446, is one of several gun-related bills passed by the California Legislature and signed into law by Gov. Jerry Brown in 2016.

While lawmakers in 1999 prohibited the sale, manufacture or importation of high-capacity ammunition magazines – but let those who owned them before that point keep them – SB 1446 forced gun-owners with "grandfathered" magazines to turn them in for destruction by July 1, 2017, or face legal consequences. In November 2016, voters also passed the corresponding Proposition 63, which requires anyone who owns a large-capacity magazine to do one of three things: move it out of state, sell it to a licensed firearms dealer, or surrender it to a law enforcement agency to be destroyed. It seems like if there is a State Law, an Ordinance is not needed.

Thank you.

Kind Regards,

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



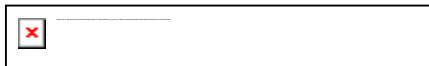
*Lisa Aragon*

**From:** City of Morgan Hill [mailto:maureen@mhcrc.ccsend.com] **On Behalf Of** City of Morgan Hill

**Sent:** Tuesday, October 2, 2018 9:31 AM

**To:** Aragon, Lisa <Lisa.Aragon@anritsu.com>

**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance



## Provide Your Input on the Draft Anti Gun Violence Ordinance

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-

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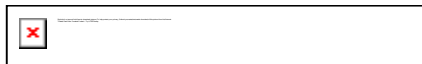
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**Michelle Bigelow**

---

**From:** B. Kakunda <bkakunda@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 1:51 PM  
**To:** Maureen Tobin; Bassam Khoury; Andrew Kakunda  
**Subject:** Input on the Draft Anti Gun Violence Ordinance

Hi Maureen,

The following are my comments on the subject.

Although I have no need to have a pellet gun, sling shot, or anything like that I feel that the draft ordinance goes too far. For someone who has a problem with pests in his own backyard and wants to use any of these devices I think he should be free to do so without having to get a permit from the police and be required to have \$1000,000 of insurance per occurrence and pay a \$25 fee.

If someone uses a pellet gun for example and breaks his neighbor's window, there are laws that already remedy this and he will be financially responsible.

I am all for reasonable gun control but this measure goes too far!

Bishara Kakunda

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** Michael Dean <mcdean123@gmail.com>  
**Sent:** Tuesday, October 2, 2018 11:20 AM  
**To:** Maureen Tobin  
**Subject:** Potential issues with anti gun violence ordinance

Hi Maureen,

Looking through the draft of the anti gun violence ordinance I see some issues that you may not be aware of.

9.04.010 (A) as worded makes Nerf guns and other toy dart guns illegal to use in the city.

9.04.010 (B) will open the door for criminal liability for a CA resident from another county who has a CCW issued from their county and visiting Morgan Hill if they discharge their firearm in self defense.

9.04.010 (C) (1) May not survive a court challenge. Is it Constitutionally permissive to require a person to carry insurance in order to exercise a protected right (2nd Amendment)?

9.04.050 is currently covered under state law (Proposition 63). Be advised that the Federal 9th Circuit Court of Appeals has applied a preliminary injunction to the magazine restriction portion of Prop. 63.

I would assume that any firearm regulations created by Morgan Hill will probably be challenged in court by a variety of pro-gun groups (NRA, CRPA, 2A Foundation, FPC, etc.). If the Supreme Court becomes more conservative under President Trump (and I assume it will), then restrictions placed on the 2nd Amendment via local law may be found unconstitutional by the Supreme Court and the law nullified. California has statutes providing the loser should pay the winner's attorneys' fees in some cases and Morgan Hill may end up having to pay a large amount of money in accrued legal fees.

You and the city's legal team should also ensure that no parts of the ordinance run afoul of State preemption.

I hope you find my response helpful.

-Michael Dean

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Guy Krevet <gkrevet@msn.com>  
**Sent:** Tuesday, October 2, 2018 10:24 AM  
**To:** Maureen Tobin  
**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance

Good morning Ms. Tobin,

Am I understanding that slingshot, BB guns and pellet guns would need a written permit from the Police Chief?  
I would appreciate your reply.

Regards,  
Guy Krevet

Sent from [Mail](#) for Windows 10

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Barbara Shehan <barbshehan@gmail.com>  
**Sent:** Tuesday, October 2, 2018 3:36 PM  
**To:** Maureen Tobin  
**Subject:** Providing My Input on the Draft Anti Gun Violence Ordinance

Dear Mrs Tobin-

There is much that I could say about these proposed Ordinances, none of which is positive or in favor of these proposed changes. Not only are they redundant to what is already law in the state, but they further extend the governments reach in to my home. These ordinances will continue to tighten the leash on law abiding citizens such as myself and the majority of the Morgan Hill population. I disagree with these changes wholeheartedly.

Regards,  
Barbara Shehan  
408.315.2334

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** Sal Lucido <slucido@assurx.com>  
**Sent:** Tuesday, October 2, 2018 10:51 AM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

Hello Maureen,

Thank you for the notice.

There is an interesting loophole in the section that states: "No person shall leave a firearm (as defined in Penal Code Section 16520 or as amended) unattended in any residence owned or controlled by that person..."

This implies that they MAY leave the firearm unattended without securing or storing it properly - in a location that is NOT owned or controlled by that person.

Thanks Again - Sal

---

**From:** City of Morgan Hill <maureen@mhcrc.ccsend.com> on behalf of City of Morgan Hill  
 <maureen.tobin@morganhill.ca.gov>  
**Sent:** Tuesday, October 2, 2018 9:31 AM  
**To:** Sal Lucido  
**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance



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## Michelle Bigelow

---

**From:** kangkeren@charter.net  
**Sent:** Tuesday, October 2, 2018 10:46 AM  
**To:** Maureen Tobin  
**Subject:** RE: Provide Your Input on the Draft Anti Gun Violence Ordinance

Maureen,  
 A few thoughts.

It seems that the existing text (9.04.010) says that anyone lawfully possessing a firearm and who discharges it to defend himself or herself or family from home invaders or others (while within the City limits) and does so without a permit will violate the ordinance. To avoid violation, one would have to seek a permit in advance, (the permit being to "discharge" the weapon, not to possess it), but the criteria for applying (such as requiring that the problem necessitating the firearm discharge be stated and what other means have been unsuccessfully employed to abate the problem) seem difficult to meet (unless one is being threatened directly by another, for example).

It seems that getting a permit because of a desire to have a firearm for purposes of self-defense, in the unlikely event it is needed, (because, for example, of a breakin by an escaped convict, or someone less than mentally stable, etc.) would be hard to obtain. The "problem" for a person who simply wanted a firearm to protect his or her home or person, is no more than the real, albeit unlikely, possibility of being confronted by dangerous, threatening individuals; and other than locks on doors and possible alarm systems (which might not be helpful in all situations), how does one suggest what might have been done to "abate" such a problem?

On what basis would someone who applied on such a basis be denied a permit? Would all such applicants be granted permits unless otherwise shown to be mentally or emotionally unstable, or had a criminal record, or a restraining order against them?

Is there a Constitutional issue here?

Should there be a caveat here; such as: "A. No person shall discharge in the city, outside of 1) a licensed shooting range OR 2) IN LAWFUL SELF-DEFENSE, DEFENSE OF OTHERS, OR DEFENSE OF HOME, any instrument or device ..."

As for new text, 9.04.040 (Safe Storage of Firearms), I am unsure of what "unattended" means? Does that mean the firearm is not being held in someone's hands? or that no person who is aware of the firearm is in the house with it? Is the provision intended to reduce the incidence of accidental discharges? or is it intended for something else? Depending on how "unattended" is interpreted, it could be helpful in preventing accidental discharges by someone who shouldn't be handling the firearm (e.g. a child) - of course, there can always be accidental discharges by someone "attending" the firearm (including by dancing FBI agents if recent events are any indication.) The provision wouldn't seem to be effective at preventing thefts of firearms if that is at all its intended purpose.

Ken Cochran

-----  
**From:** "City of Morgan Hill"  
**To:** kangkeren@charter.net  
**Cc:**  
**Sent:** Tuesday October 2 2018 11:45:35AM  
**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



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Prior to returning to the City Council, we would like to provide another opportunity for the community to share their input on the draft ordinance. It is available to view at the following link [Draft City of Morgan Hill Anti Gun Violence Ordinance](#). The regular type has been part of the draft ordinance from the beginning, the strikeout is what is proposed to be deleted and language in the italics is what is currently proposed to be added.

**Comments can be submitted directly to [Maureen Tobin](#) through Friday, October 5, 2018.**

-

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Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

**From:** Tracy Hutcheson <tracyhut@gmail.com>  
**Sent:** Tuesday, October 2, 2018 10:42 AM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

Hi Maureen, thank you for sharing. I have a couple questions/comments.

### Section 9.04.020. Storage of firearms by licensed dealers

I'm curious why this section is proposed to be mostly deleted? Most of the text that is to be deleted reads as a preventive safety measure. Seems like a reasonable up front way to prevent weapons from being stolen from a licensed vendor's establishment. Is the spirit of this section covered in another way somewhere else?

### 9.04.030. Duty to report theft or loss of firearms

This section is a proposed new add which is good. However, when you remove the safe storage section 9.04.020 and add section 030 it looks like a fix after the fact once a firearm is stolen. This 030 section without the 020 section reads like a purely reactive response once a firearm was stolen potentially due to lax storage (which is preventable). Unless the spirit of the storage section is captured in another way I would suggest that the 9.04.020 preventive safety measure be included (i.e., not deleted). I'm sure it's my lack of knowledge but I'm curious and would like to understand the reasoning for removal of section 9.04.020.

### Section 9.04.050 C7

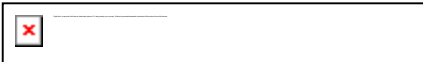
What is considered a reasonable amount of time to transport a found large capacity magazine? I would think that specifying something like a matter of hours may be too restrictive but maybe there should be language in there that says something like "reasonably necessary to deliver to law enforcement **not to exceed 2 days.**"

### 9.04.050

C7. Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;

thanks Maureen,  
 Tracy Hutcheson

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



**Provide Your Input on the  
 Draft Anti Gun Violence Ordinance**

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

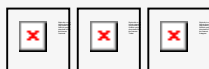
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## Michelle Bigelow

**From:** Kevin S <kevinsmall@gmail.com>  
**Sent:** Tuesday, October 2, 2018 9:47 AM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

Hello,

Will there be a community meeting to discuss this proposal and changes?

Please let me know.

Thank you,  
 Kevin

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



## Provide Your Input on the Draft Anti Gun Violence Ordinance

At its March 7, 2018 meeting the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Since then the City Council has been seeking direction on several potential measures in furtherance of the Council's goals, including adopting an ordinance to prevent gun violence in Morgan Hill.

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Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

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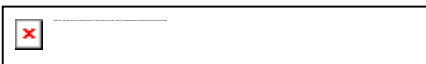
Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

**From:** David Smith <dsmithcdc@gmail.com>  
**Sent:** Tuesday, October 2, 2018 1:39 PM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

How many criminals do you think will abide by this ordinance?

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



## Provide Your Input on the Draft Anti Gun Violence Ordinance

At its March 7, 2018 meeting the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Since then the City Council has been seeking direction on several potential measures in furtherance of the Council's goals, including adopting an ordinance to prevent gun violence in Morgan Hill.

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Company Name | Phone | Address | Website



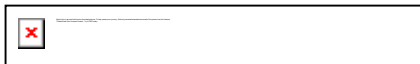
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## Michelle Bigelow

---

**From:** Dr. Robert Kessler <drrobertkessler@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 10:29 AM  
**To:** Maureen Tobin  
**Subject:** weapons amendment.

To whom it may concern;

I received a city generated e-mail inviting comment with regard to an upcoming amendment on firearms in the city of Morgan Hill. My response is as follows:

In reading the proposal it seems clear that there are good intentions in mind for welfare and safety. However, I see the net effect as simply keeping a law abiding citizen from freedoms of firearm possession. This proposal becomes an avenue to limit the ability for someone to lawfully own very viable and available equipment. It is too controlling for grown law abiding citizens. This amendment will only limit normal people for whom the law is not needed. Those who would create issues will not respect the law.

Gun owners would obviously report stolen equipment. Its not a leap to assume if someone will steel a gun they will also either use or sell to someone who would use a gun illegally. Registration would fall back to the gun owner- a big problem. Also, I'll bet if someone buys a gun legally and therefore registers the gun they are already law abiding and would handle the responsibility of reporting stolen equipment on ethical and moral grounds; again, the problem is not with law abiding citizens...

Storage of firearms is already protocolled and part of gun ownership so here again- why this law?

I simply see this amendment as an at best feel good attempt to make a difference. At worst I see it as a step toward draconian control.

I do not fear a neighbor with guns, big magazines etc any more than I fear a neighbor that has a sports car that will do 150 MPH, or a neighbor that has a car and a house with a kegerator for beer parties etc. Responsible adults are responsible adults, not babies who dont know any better and need to be controlled by an elected official that thinks they know better... but dont get me started...

There is a time and place for good governance- this one would not work though.

Thank you for the opportunity to respond.

Respectfully,

Robert

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** Tom Guinane <guinane@gmail.com>  
**Sent:** Tuesday, October 2, 2018 10:57 AM  
**To:** Maureen Tobin  
**Subject:** "Weapons" is not clearly defined in this ordinance

Hi Maureen,

The text in the ordinance states "*No person shall discharge in the city, outside of a licensed shooting range, any instrument or device **of any kind**, character or description which discharges, propels or hurls bullets, **missiles of any kind to any distance** from such instrument or device by means of **elastic force, air pressure**, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.*"

I am not exactly sure what that means. 'Missile' is defined as 'an object that is forcibly propelled at a target, either by hand or from a mechanical weapon.' This is very vague. 'Missile of any kind' could include BB rifles, pellet guns, slingshots, Nerf guns, water balloon cannons, and other toys that propel objects.

Is there a way to reword the ordinance so it captures the intent of requiring permits for 'firearms and other dangerous weapons' and could not be interpreted to include toys?

Maybe a sample list of what would be included in this ordinance and what would not might help.

Thanks.

--

Cheers,  
 Tom Guinane

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Kurt Hoffman <fishklr@verizon.net>  
**Sent:** Tuesday, October 2, 2018 7:21 PM  
**To:** Maureen Tobin  
**Subject:** Anti gun violence act

This is not an anti gun violence act it is an anti gun ownership act!

I oppose every portion of this act because it will do nothing, I repeat nothing to address the issue.

If you look at the statistics what little gun violence we have in Morgan Hill is committed by persons who are not lawfully possessing a gun in the first place!

You are attacking only lawful owners of firearms. If you want to stem gun violence I suggest you look at eliminating drug use and homelessness, but you will not because those are hard, and attacking lawful gun owners is easy.

At the very least admit that your goal is to confiscate all firearms, and disarm the entire population!

Kurt Hoffman

Sent from my iPad

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** John Luce <jluce@outlook.com>  
**Sent:** Wednesday, October 3, 2018 6:42 AM  
**To:** Maureen Tobin  
**Subject:** Draft City of Morgan Hill Anti Gun Violence Ordinance

Wow I have seen some really horrible written laws but this takes the cake. So you want to make it so expensive and hard for honest people to protect them selves. Basically if someone is breaking into my house or trying to hurt my family, I have to have a million dollar insurance policy and get a permit from the Sheriff. Can you tell does this person need to have a insurance policy incase he causes any damage on my property? You really need to look at this "Ordinance" and realize that punishing honest people will only make crime go up. That will drive honest hard working people from your town. You will never stop crime but let's not make it easier. I know you probably will not read this but just needed to say how bad your "Common Sense Gun Law" will be.

Regards,

John Luce

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Richard Howell Jr. <rich\_howell@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 4:27 PM  
**To:** Maureen Tobin  
**Subject:** Draft Proposal against Gun Violence

This proposal is a violation of my 2nd Amendment rights. People who commit crimes do not follow laws. All you are doing is limiting the rights of law abiding citizens as guaranteed them by the U.S. Constitution / Bill of Rights. Additionally we have NEVER had an issue with gun violence in this City...there is ZERO precedent for any of this. Anyone supporting this will be voted out.

Again...if someone wants to commit an act of violence; they DO NOT CARE HOW MANY/WHICH LAWS THEY ARE BREAKING. Gun laws only affect people who follow the law...and those people are not seeking to harm anyone; myself included.

Please stop trying to take away my rights and the rights of others.

Thank You,

Rich Howell  
Morgan Hill resident since 1985.

[Sent from Yahoo Mail on Android](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** Jason Shehan <jason\_shehan@att.net>  
**Sent:** Tuesday, October 2, 2018 8:56 PM  
**To:** Maureen Tobin  
**Subject:** Firearm Ordinance comment

Hi Maureen, I would like to voice my opinion in opposition to the Firearms Ordinance that the City of Morgan Hill is planning to put into place. I moved to Morgan Hill almost 5 years ago, mainly to get out of the big city feel that San Jose has become. I grew up in San Jose and had lived there my entire life minus the years I was in San Luis Obispo for college. I bought a house in MH with my wife and we have 2 young children. I am so happy with the move and thoroughly enjoy the smaller town atmosphere and the closer to "country living" vibe that this town brings. More specifically, I wanted to get away from San Jose and the far left policies that were being shoved down the throats of every citizen that lived there, no matter what my views were. I feel that Morgan Hill doesn't represent the same big city mindset, and this new ordinance is a step in the direction of implementing government will against law abiding citizens.

Nowhere in this draft ordinance does it make mention or prove that any of these laws will prevent firearm crime. It in fact, will only cause an increase in firearm crime for those who choose to break the law, and who are recurring criminals. I am a gun owner and a supporter of the 2nd Amendment, yes the same 2nd Amendment that is my right as an American citizen, which the state of California has already infringed upon. I'm not sure what your background in law, and moreso with firearms and firearm ownership is, or the background of the rest of the City Council, but nearly every bullet item mentioned is already state law.

- 1) Its already illegal to discharge a firearm within city limits, but now you want homeowners to apply for a permit in order to protect ourselves within our own homes, and purchase proof of liability insurance to do this?
- 2) It is already written into law that a gun owner is required to report loss or theft of a registered firearm
- 3) It is already required that firearms be stored properly, and did you know that you are not allowed to legally purchase a gun without providing the make and model of the gun safe that you already own?
- 4) it is already now illegal to possess a high capacity magazine

Do you and the council members realize that you are only punishing and putting limitations on law abiding gun owners? Those who wish to commit crimes with firearms are doing so through illegal back alley purchases where they can have an unregistered firearm so that they cannot be traced back to the owner, and those criminals who commit violent crimes with firearms will not and historically do not by definition, follow the law. Do you really think that a criminal will turn in their high capacity magazines, and purchase liability insurance before they strong arm rob the next person at gunpoint?

Please stop with this madness and quit trying to force these laws that only punish those law abiding citizens who have followed all legal methods of purchasing their firearms for sport (yes, we do not intend to harm other people when our guns are purchased). You can rest assured that those who have firearms in their homes keep them locked up safely and securely, and if the need arises to protect our home and our family in the middle of the night as someone is breaking in and plans to do harm, the last thing that we will consider is the fact that we forgot to purchase proof of liability.

Thank you,  
 Jason Shehan

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Dr.Jerome Sarmiento <jsarmd@yahoo.com>  
**Sent:** Wednesday, October 3, 2018 4:14 AM  
**To:** Maureen Tobin  
**Subject:** Gun Violence

Hello,

I would like to give my input regarding this matter. Historically gun violence in the US involves unhappy and mentally unstable gun owners or relatives who have access to guns & they have in majority done this violence in school campus-employing security guards and reducing the salary of school superintendents who obviously are not in the campus during disturbances. The guards should be armed; well trained and should also be courteous To students, parents, teachers and school employees. ID cards should be worn upon entry into schools. Security cameras with alarm systems when a perpetrator is identified and lock down procedures are underway. A safe lockdown area impenetrable to weapons of mass destruction is best

Thank you

Jerome

[Sent from Yahoo Mail for iPhone](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** B Thomas Stewart <toms711@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 9:32 PM  
**To:** Maureen Tobin  
**Subject:** proposed gun ordinance

Most of the proposed gun ordinance looks good, however I think the gun storage regulations should still be retained.

Tom Stewart  
4087791067

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**Michelle Bigelow**

---

**From:** Gregory Bailey <gbailey@airtronics.com>  
**Sent:** Wednesday, October 3, 2018 8:56 AM  
**To:** Maureen Tobin  
**Subject:** Anti Gun Violence Ordinance

Hi Maureen,

Other than not seeing anything about concealed or open carry in the permit section, I don't understand the provision on page 5 section 9 giving retired officers an exclusion when they are in fact retired by definition. Should not these weapons only be maintained at the police station for police use, even if for some reason an officer is recalled? Once an officer is retired, are they not then a private citizen? Even active/reserve officers large capacity magazines should be at the station or in their police vehicles, not at their private residence. If the need for such magazines is required, are they not in that assault vehicle that SWAT team has and are they not the only ones who would be authorized/trained in their use. While officers do respond from home, are not those actions coordinated? While I fully agree that officers should be able to defend themselves, these items should be looked at a little more closely.

Regards,  
Greg Bailey

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Rjbenich <rjbenich@yahoo.com>  
**Sent:** Wednesday, October 3, 2018 8:37 AM  
**To:** Maureen Tobin  
**Subject:** Draft Anti Gun Violence Ordinance

Hello Maureen. My comments regarding this draft ordinance are as follows:

1. It is too restrictive with respect to BB guns and pellet guns.
2. It is unreasonable to have to get a permit for a BB gun or pellet gun.
3. It is unreasonable to have to have a BB gun or pellet gun locked up.
4. It is unreasonable to have to have a trigger guard on a BB gun or pellet gun.
5. It is unreasonable to have to report the theft of a BB gun or pellet gun.
6. This ordinance is well written for guns that shoot cartridges of .22 Cal. or larger.

Robert Benich

Sent from my iPad

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Danielle DeRome <drderome@yahoo.es>  
**Sent:** Wednesday, October 3, 2018 11:04 AM  
**To:** Maureen Tobin  
**Subject:** Draft gun violence legislation

Dear Maureen,

Thank you for providing citizens the opportunity to review and comment on the draft gun violence legislation being considered by the City of Morgan Hill.

Are the parts that have been lined out being eliminated because they are already included in legislation that covers Morgan Hill?

A concern that comes to mind includes the legality of producing, selling/sharing, possession, and use of 3D printed guns.

Another concern is the potential presence of guns in our schools, in particular via the proposal/suggestion by Sec. DeVos et al. to arm teachers.

Perhaps my imagination is jumping the gun, so to speak, but I wonder if our City gun legislation should address such matters now so they cannot become an issue in the future.

Again, thank you very much for the opportunity to be a part of this important discussion.

Sincerely,  
Danielle DeRome  
164 Sanchez Drive  
Morgan Hill, CA 95037  
(408) 623-1205  
drderome@yahoo.es

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** mbhave@aol.com  
**Sent:** Wednesday, October 3, 2018 11:09 AM  
**To:** Maureen Tobin  
**Subject:** Gun ordinance.

Hi Maureen,

I reviewed the proposed gun ordinance. I don't believe there is any reason for the City of Morgan Hill to jump into the middle of this issue. State law covers most of the proposals. Morgan Hills proposal is more restrictive and not necessary in my opinion. No one is going to turn in magazines they have lawfully owned, as per the ordinance thus, making them criminals in the eyes of the City of Morgan Hill.

*Sent from my Verizon 4G LTE Smartphone*

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Johnny Colino <jcolino@kw.com>  
**Sent:** Thursday, October 4, 2018 9:25 AM  
**To:** Maureen Tobin  
**Subject:** Draft Anti Gun Violence Ordinance [edit]

Hi Maureen,

Section 9.04.010 A Requires a statement that the **only exception would strictly be within the structure of ones own home for the express and exclusive purpose of self defense where significant and obvious threat to ones life or significant risk of injury at the hand of another is eminent.**

Without that, there would be a significant and obvious gap in this ordinance which would prevent one from defending themselves during home invasion, attempted murder, rape and other violent crimes. While I support the remaining sections of the proposed ordinance, I fear that with this clause this ordinance would be deemed unconstitutional by many.

I welcome your thoughts on this.

**Thanks,  
Johnny Colino**

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Danielle DeRome <drderome@yahoo.es>  
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Danielle DeRome  
164 Sanchez Drive  
Morgan Hill, CA 95037  
(408) 623-1205  
drderome@yahoo.es

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Nancy Benich <nebenich@yahoo.com>  
**Sent:** Wednesday, October 3, 2018 1:19 PM  
**To:** Maureen Tobin  
**Subject:** Gun Law

Dear Maureen,  
I like the gun law except do not include pellet guns or BB guns - too restrictive!  
Nancy Benich

Sent from my iPhone

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Elle Simon <ellesimon.consulting@gmail.com>  
**Sent:** Wednesday, October 3, 2018 6:26 PM  
**To:** Maureen Tobin  
**Subject:** Please ask the Council to consider changing the Draft Anti-Gun Ordinance as follows:

**9.04.040 Safe storage of firearms**

Line 3 ...container, (delete "or"; add "and") the firearm is disabled...

Thank you.

--

Elle Simon  
Resident of Morgan Hill since November 29, 2017  
Mailing Address: Post Office Box 2102; 95038  
Residence: 505 Barrett Ave. #228; 95037

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**Michelle Bigelow**

---

**From:** richnmitz@charter.net  
**Sent:** Wednesday, October 3, 2018 5:10 PM  
**To:** Maureen Tobin  
**Subject:** Proposed Gun Violence Ordinance

Dear Maureen,

I am strongly opposed to the subject draft.

My opposition is based on:

1. Read literally the "Discharge" paragraph prevents my young grandchildren from firing toy "nerf" guns without authorization from the police chief. It also prevents me from using my air rifle from defending my garden from rats ( a ridiculous invasion into my privacy)!
2. Anyone driven to harm others with violence will pay no attention to such an ordinance.
3. Its just more red tape and cost burden on normal law abiding citizens as myself (and the police department too).

I don't know when our political leaders will learn that moral failings are rooted deeper and are more complicated than what might be provided by a "silly" ordinance such as this.

Richard Loutensock

2997 Holiday Ct

Morgan Hill

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

---

**From:** Guy Krevet <gkrevet@msn.com>  
**Sent:** Wednesday, October 3, 2018 1:38 PM  
**To:** Maureen Tobin  
**Subject:** RE: Provide Your Input on the Draft Anti Gun Violence Ordinance

Good afternoon Ms. Tobin,

Thank you for the reply.

Comments on Morgan Hill proposed Weapons Ordinance.

9.04.010 Discharge – Permit required Fee. - This section **Title 9 - PUBLIC PEACE, MORALS, AND WELFARE** already exist but needs to be modified per my previous email. It should be for discharging a firearm.

9.04.030 Duty to report theft or loss of firearms - California has an established law to cover this. It's five days, Morgan Hill wants two days. **Leave it five days**

9.04.040 Safe storage of firearms - California has an established law to cover this. It's the same.

9.04.050 Possession of large capacity ammunition magazines prohibited. California has an established law to cover this, but Morgan Hill wants to collect large capacity magazines prior to January 1, 2000. **Follow the same law as California.**

By Morgan Hill making a slight modification to the present California gun laws, it introduces conflict to the citizenship since people will have the natural tendencies to check the California website and not the Morgan Hill for gun laws. It certainly was my case when I started to look at the proposal and discovered that Morgan Hill had a separate ordinance. The other reason to use the California existing laws is that it would eliminate any legal challenges to the City.

In my opinion, the City has good intention but the proposed ordinance with the slight modifications will not have any impact to prevent gun violence in Morgan Hill. I would recommend just adding the present California gun Laws to the Morgan Hill ordinance.

Regards,

Guy Krevet

---

**From:** Maureen Tobin <Maureen.Tobin@morganhill.ca.gov>  
**Sent:** Wednesday, October 3, 2018 11:55 AM  
**To:** Guy Krevet <gkrevet@msn.com>  
**Subject:** RE: Provide Your Input on the Draft Anti Gun Violence Ordinance

Hello Mr. Krevet.

Thank you for your input.

That is certainly not the intent of the language in the draft ordinance, but it seems to be causing this interpretation. I have forwarded your comments to the City Attorney, Police Chief and the City Council.  
 Have a good day.

**Maureen Tobin**  
 Communications and Engagement Manager  
[Engage With Us!](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**City of Morgan Hill**

City Manager's Office

17575 Peak Avenue, Morgan Hill, CA 95037

**P:** 408.310.4706 **C:** 408.406.4076[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)[morgan-hill.ca.gov](http://morgan-hill.ca.gov) | [facebook](#) | [twitter](#)

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**From:** Guy Krevet <[gkrevet@msn.com](mailto:gkrevet@msn.com)>**Sent:** Tuesday, October 2, 2018 10:24 AM**To:** Maureen Tobin <[Maureen.Tobin@morganhill.ca.gov](mailto:Maureen.Tobin@morganhill.ca.gov)>**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance

Good morning Ms. Tobin,

Am I understanding that slingshot, BB guns and pellet guns would need a written permit from the Police Chief?  
I would appreciate your reply.

Regards,  
Guy Krevet

Sent from [Mail](#) for Windows 10

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** JOHN KRACHT <krachtjohn@yahoo.com>  
**Sent:** Tuesday, October 2, 2018 11:54 AM  
**To:** Maureen Tobin  
**Subject:** Firearms Ord.

Maureen,

What **municipal** statistics justify this adjustment? It really appears to be a kneejerk reaction to the national news cycles about the Vegas shooting a year ago. There are lots of state and county laws and regulations. If you are going to add more and more restrictions you should be able to cite the **local** misconduct, by case number preferably, that would support such a belt-tightening. Or is this some sort of 'resistance ' protest of the Trump administration?

John Kracht  
16460 Rustling Oak Court

[Sent from Yahoo Mail for iPad](#)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Jim <jim@jnkrause.com>  
**Sent:** Tuesday, October 2, 2018 12:40 PM  
**To:** Maureen Tobin  
**Cc:** jim@jnkrause.com  
**Subject:** gun control ordinance

**Importance:** High

Hi Maureen.

Question, does Morgan Hill have a gun problem that requires this ordinance?. If so, what are the statistics?

I can understand an ordinance if we have a known problem, but I am unaware of one at this point. Also, how do you defend yourself if the weapon is locked up?

Looking forward to your response.

Thanks,

Jim Krause

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

---

**From:** Allen Picchi <allenpicchi@msn.com>  
**Sent:** Tuesday, October 2, 2018 12:44 PM  
**To:** Maureen Tobin  
**Subject:** Gun Violence Ordinance

To Whom It Concerns,

What specifically, are you trying to achieve with this ordinance update. What problem are you trying to solve...

I am not in favor, nor do I support the text surrounding Section 9.04.050 Section B, regarding high capacity magazines that are in peoples' possession prior to the passing of California gun laws. Specifically, I would like to see the removal of #1&2 text.

Additionally, I would like to see text surrounding forfeiture and prosecution of those in possession of theses magazines **removed** from the ordinance, regardless of whether smaller capacity magazines are available or not.

I am also not in favor of expecting residences who obtain a permit to also obtain liability insurance.

Allen Picchi

Sent from [Mail](#) for Windows 10

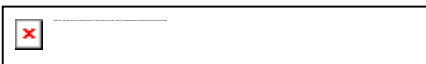
Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

**From:** David Smith <dsmithcdc@gmail.com>  
**Sent:** Tuesday, October 2, 2018 1:39 PM  
**To:** Maureen Tobin  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance

How many criminals do you think will abide by this ordinance?

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



## Provide Your Input on the Draft Anti Gun Violence Ordinance

At its March 7, 2018 meeting the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Since then the City Council has been seeking direction on several potential measures in furtherance of the Council's goals, including adopting an ordinance to prevent gun violence in Morgan Hill.

Two community meetings have been held to gather input on the language to be included in the ordinance. At this time it is anticipated that the draft ordinance will be taken back to the City Council for consideration of adoption on October 17th.

Prior to returning to the City Council, we would like to provide another opportunity for the community to share their input on the draft ordinance. It is available to view at the following link [Draft City of Morgan Hill Anti Gun Violence Ordinance](#). The regular type has been part of the draft ordinance from the beginning, the strikethrough is what is proposed to be deleted and language in the italics is what is currently proposed to be added.

**Comments can be submitted directly to Maureen Tobin through Friday, October 5, 2018.**

Company Name | Phone | Address | Website



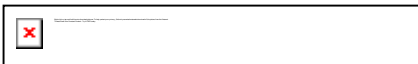
Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

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Sent by maureen.tobin@morganhill.ca.gov in collaboration with



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## Michelle Bigelow

---

**From:** Oz M <joswaldomendoza@gmail.com>  
**Sent:** Thursday, October 4, 2018 9:18 AM  
**To:** Maureen Tobin  
**Subject:** Anti Gun Violence Ordinance

Mrs. Maureen Tobin,

I wanted to share my thoughts on the Anti Gun Violence Ordinance.

I just found out about this Ordinance through family that the city is planning on further restricting citizen's right to use any type of weapon to be discharged within city limits.

I am oppose to such ordinance due to the fact this Ordinance will remove due process to law abiding citizen's rights. Also, what happens if someone discharges a weapon of any kind accidentally. This would make any citizen a criminal immediately. No due process is applied.

This Ordinance is the type of things that abusive government does to protect it self from citizens and makes government law enforcers no better than Socialist guards.

They can take away any citizen's right to free use of any weapon to defend them selves from lethal aggression.

I recommend that if such ordinances are to be in effect it will extend to all citizen's in the city. Including law enforcement.

How could I trust government that does not trust me to have any right whatsoever to defend my family from threat until I have a permit from government to do so.

The other night, I called in a event, I heard what sounded like gun discharge going on at night. The 911 operator had not receive any other reports of such sounds reported and or could hear them. How can I get permission to defend my self when authorities or emergency responders are unaware of such events going on in the city. How long should I wait until I get a permit to defend my self from possible threat.

What insurance carrier would give me coverage to be able to defend my self based upon your permission to do so.

Just the fact that I have to ask permission to protect my self does not make me safe in my own community.

Based on you Ordinance, I and by extension, my family, has to get permission to use pellet guns in my backyard. I have to get permission to teach/learn Bow and arrow in my backyard. I have to get a permit to discharge rocks with a sling shot. I have to get a permit to practice with any weapon described. That is not OK to me.

The fact that I have to be submit to the Chief of Police for review to get approval or agreement to discharge a weapon makes me thing that I no longer have the right to protect my self unless permission is given.

Should I be concern of retaliation from the Police and City for my shared thoughts?

In closing, the fact that the city is considering such draconian strand on my rights to defend my self has started discussion to find another place to live among my family.

We would like to not have to move but the fact that we are considering it should give you some pause for review of your Ordinance.

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

Sincerely,

A Morgan Hill citizen of seven years

Jose Mendoza

**From:** [Michelle Bigelow](#)  
**To:** [Michelle Bigelow](#)  
**Subject:** FW: City of Morgan Hill Anti-Gun Violence Ordinance  
**Date:** Tuesday, October 9, 2018 9:07:57 AM

---

**From:** Brian Faircloth <clawsbo@attglobal.net>  
**Sent:** Monday, October 8, 2018 3:15 AM  
**To:** Maureen Tobin <Maureen.Tobin@morganhill.ca.gov>  
**Subject:** City of Morgan Hill Anti-Gun Violence Ordinance

Maureen, I have looked over the draft of the subject ordinance. What immediately comes to mind is that the ordinance is void of any substance that would deter any gun violence in Morgan Hill. What the ordinance does contain are provisions that seem to be an attack on gun ownership in Morgan Hill. In fact, the ordinance should be named 'anti-gun ownership'. It has been proven time and time again that having more gun laws has no effect on gun violence. If the City of Morgan Hill wants to reduce or eliminate gun violence in Morgan Hill, the focus should be on gun crimes and not on gun ownership. When I attended the initial meeting to discuss the draft ordinance it was obvious that the attendees representing the city had no intention on discussing the purpose or what gun violence problem needed to be addressed. In short, the ordinance as written is a political statement against guns and gun ownership, not a good faith effort to actually address gun violence.

My belief is that if you want to reduce gun crimes you write an ordinance to go after the perpetrators of the gun crimes, not write an ordinance that has the potential to make gun owners the criminals.

My recommendation to the City of Morgan Hill is that they write an ordinance that contains repercussions for committing ANY crime in Morgan Hill that includes a use of a gun. Specifically, if a perpetrator of a crime uses a gun they will be subject to a mandatory minimum sentence of 10 years in jail. If someone is injured in the crime the mandatory minimum sentence is 15 years. If someone is killed in the crime the mandatory minimum sentence is 30 years.

As a side note I want to leave you with this: Thousands of people are injured and killed every year as a result of car thefts and I do not ever recall the car owner being arrested for the crime because their garage was not locked or their car had too much horsepower.

If the City of Morgan Hill wants to have honest, open, and non-biased discussions in the future, I am willing to participate.

I thank you for your assistance.

Brian Faircloth

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

Comments on

Draft Ordinance language to require safe firearms storage, require the reporting of firearms theft, and prohibit large capacity magazines.

First of all I disagree with the characterization of the notifying email that the council is in consideration of “common sense” measures. That is code by politicians that we are going to do what we damn well please without regard to any real standard of common sense. It is soothing rhetoric on their part to believe that they act on the moral high ground. I reject any notion that this language fulfills that in spirit and in the actual reading.

This ordinance will not prevent gun violence in Morgan Hill as that the law cannot influence the behavior of criminals who do not obey laws in the first place. The predominance of gun violence is done by people already prepared to break the law. This law is intended only to affect law abiding citizens who believe that law should be followed. This law potentially makes law abiding citizens into criminals and is based on coercion that can only lead to more problems.

Concerns:

1. The Ordinance is inappropriately named. It excludes two key provisions of the ordinance in the title. The ordinance requires a discharge permit and the ordinance has provisions for confiscation of guns. Neither of these appear in the title. If the public sees the title they will likely not understand the consequences of the ordinance. In fact, the California Rifle and Pistol Association listed the title of the ordinance with the current title in their action reports for September. This was done prior to the language of the ordinance being available to them. Those two provisions should be included in the title of the Ordinance to be totally transparent about intent.
2. The ordinance goes well beyond what Council said was their intent. The brief description of the board’s actions of March 7, 2018 indicates gun violence and measures to prevent gun violence. As mentioned this will not curb gun violence as I already said. In addition, the language of the ordinance goes way beyond guns. As written it the language includes other projectile devices. So again the title and the intent of this ordinance is clearly disingenuous.
3. The language of the ordinance excludes the right of an individual to provide for their own self-defense. This ordinance takes away that basic individual right to a great extent. Presumably because of your belief that police will fulfil that role. The ordinance states, “the chief of police shall be the sole judge as to the desirability or necessity of such permit, which must be, in his judgement, necessary for the protection of the applicant or his property. This is an incredible statement when considering that the Supreme Court has ruled that police do not have an obligation to protect people and the fact that government enjoys sovereign immunity for decisions made.

Additionally the ordinance adds more broad language to the permit process used by the police chief for approval, “in the furtherance of the public welfare, and with necessity cannot be reasonably abated by other means. What does, “public welfare” mean. The police chief could use this to deny any permit. It also replaces the judgement of the individual for a second guessing police chief. What does “reasonably” mean? Something done by a reasonably person?

I consider myself a reasonable person and lots in the ordinance does not seem reasonable to me.

Police enjoy a very broad expanse for judgment in situations where they are threatened. This ordinance likely conflicts with other law that grants individuals discretion in self-defense. Yet the police chief can use the permit process to deny an important component of an individual's options for self-defense. If the decision that is made results in an individual dying because of the inability to exercise all options for self-defense the City or the police chief cannot be held accountable.

4. Applicants for such permit shall provide the following:

An application in writing which states the purpose of such permit, nature of the problem to be abated which necessitates the protection of the applicant, his property or the furtherance of the public welfare, and lists all other means which have been unsuccessfully employed to abate the problem. **(Note: that as PC as most politicians are today using only "his" could be considered sexist on a number of levels. Perhaps the drafters did not believe women have property. Perhaps the drafters only consider it is a man's role to protect property. Perhaps it is a reflection of the misogynist nature of the drafters. At any rate that should be correct with at least his/her.)**

This language on the surface and in the simple reading is not common sense. In fact, it defies common sense. An application to discharge a weapon for self-defense applied for with details of need is almost impossible. I am sure that any law abiding citizen will never want to be have to discharge their weapon for self-defense. It would be hard to hypothetically state "the nature of the problem to be abated". All property owners have the potential of needing to protect their property. How are all the potentials for that stated and to the satisfaction of the Police Chief. Again what does, "public welfare", mean? As an individual it is impossible to decipher for that meaning. As for the "necessity...reasonably abated by other means", for something that has not occurred is impossible. Doesn't the phrasing lead to the conception of something like serious injury or death being proof that, "other means...unsuccessfully employed to abate the problem", seems somewhat not common sense because what would be the point then.

The insurance provisions also seem problematic. The \$1,000,000 is likely not the biggest problem. The actual use of guns in various ways that create some sort of liability is very small to the total amount of guns in circulation. That would make the actuarial payout very low. Criminal activity and suicides would be excluded from insurance payouts under normal insurance underwriting. So potential actuarial payouts would be very low. However, the ordinance uses language that might impede normal insurance underwriting standards. The insurance must be "in the form and with approved companies". The city then might reject normal and reasonable exclusions forcing companies to include all risks thus increasing the cost of the insurance. In addition the power of the city to act with approved insurance companies leaves great discretion with the city to limit carriers and thus increase costs. I believe it is not the intent of the city to cover liability or reduce gun violence. I believe the city's intent is simply to increase the cost of gun ownership.

The language provisions on the additional insured provisions and the hold harmless agreements may prove to be more difficult. It is all controlled by the form the city wants. Have those forms

been worked out. Is the city going to negotiate on the forms with insurers or is this going to be up to the applicant. This could be a sticky wicket for the applicant for something like that might have to go back and forth between legal departments, city and insurance companies. No one knows how long that will take. None of that seems reasonable or common sense to me. It leaves many people in a very uncertain place while no permits can be granted without those forms.

The \$25 fee. This might be reasonable, but the pattern for city fees is an ever growing amount to cover costs. No doubt the police chief is going to have greater costs in implementing this ordinance. That will require more and more fees and the city will easily justify an ever increasing fee to cover fees. What some would consider a modest fee at this time will quickly grow to something much higher. The chief can simply make the period every two weeks and with additional unspecified "conditions and limitations" based on the language. All under the guise of "common sense", but not what I would consider reasonable.

Finally, remember none of this will apply to the criminal wanting to do harm to law abiding citizens. They simply will not follow the law and it will put law abiding citizens in harm's way since the police have no constitutional obligation or legal accountability to protect property or persons. Criminals will be able to pick and choose their opportunities knowing their lowered risk for being accountable both practically and legally.

5. The sections under duty to report theft, Safe storage of firearms, and possession of large-capacity ammunition magazines prohibited are going to be implementation nightmares and costly for the Police. It creates a potential due diligence requirement on the police. That could lead to intrusive police activity for code enforcement.

Starting with those that applied for a discharge permit the police would, in my opinion, now be responsible for code enforcement. They could decide to go to gun owners on the permit list and now make home visits to verify insurance, safes, gun inventories, etc. Hold harmless agreements do not protect entities against negligence. In the remote likelihood that something occurred and the city did not do due diligence with a permit holder that might be considered negligent then the city might not avoid accountability based on hold harmless agreements. That possibility will require more processes related to code enforcement that will be more and more coercive. There is no way this will not eventually occur based on the language of the ordinance. The exemptions in the large capacity clip prohibition will likely lead to unequal implementation.

6. Finally the confiscation provisions. They have been left out of the title. As I said that is a serious breach of transparency. There is already a problem with property seizures in the system because of a clear conflict of interest for cities and police in regard to value of property seized. This ordinance will possibly just add to that problem that tends to undermine the confidence of some citizens.

The language in the section is vague: Any instrument, device, or article used or possessed in violation of the provisions of this chapter is declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and turned over to the Chief of Police under the conditions set forth in this section. If no complaint for violation of this chapter is filed within seventy two hours of the taking, the instrument or device shall be returned to the person from whom it was taken. If a complaint for violation of this chapter is filed within seventy-two hours, the chief of police may return it to the person from whose possession it was taken upon such conditions as he deems desirable for the public welfare. If the person from whom it was

taken is not convicted of a violation of this chapter, then the device or instruments shall be returned to him without any conditions. If there is a conviction and sixty days have expired since the date of conviction, the same may be destroyed by the chief of police or returned to the person from whom it was taken upon such conditions as the chief deems desirable for public welfare.

This is a most confusing section. How does do the police confiscate the device with no complaint? What does the first part of the section mean? Is this due process? Does the second part mean that the Chief of Police has discretion in regard to a complaint filed for violation of this chapter, to determine no violation occurred, so he "may" return the weapon from whose possession it was taken as he deems desirable for the public welfare. Again what does public welfare mean? What about moving the complaint to court, how would this reconcile with evidence needed for court? If a conviction was achieved is sixty days absolute or is that changed by appeal? It also says "may" be destroyed at the discretion of the police chief, would that be the discretion of the judge. Would not the judge also determine to return the weapon over the discretion of the police chief in regard to a conviction? If it is the discretion of the police chief what will be done with the gun if not destroyed or returned? As I said this section is very confusing.

In closing because I have taken more time with this than I wanted to, I will complete my final thoughts. I was unaware of prior meetings on this mostly because we all have busy lives. I would have gladly given this input at that time. However with today's political climate I am sure that would have made me a target, as this input likely will also make me a target. That may not be considered an unreasonable concern by some, but I think it is a reasonable concern to me. As I said this ordinance does not meet my standard for either common sense or reasonableness. I am entitled to this opinion. I also believe that based on the way politics work the powers that be have already decided what they will do with this ordinance and it is likely it will not become anymore common sense or reasonable.

It will likely take additional actions like court to modify the direction. I will be encouraging organizations interested in this topic to pursue additional actions. I give these thoughts to you in good faith as my honest constructive criticism and some dry humor. I hope to be pleasantly surprised to not be some sort of target for some in this effort to enforce more rules that I do not believe will be helpful, but I will not hold my breath. I thank you in advance for considering my thoughts.

Mike Brusa

Mbrusa7676@gmail.com

**From:** [Michael Duval](#)  
**To:** [Maureen Tobin](#)  
**Cc:** [Michael Duval](#)  
**Subject:** RE: Provide Your Input on the Draft Anti Gun Violence Ordinance  
**Date:** Friday, October 5, 2018 3:29:08 PM

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M.H. City Council,

As a resident of Morgan Hill and having grown up in this town along with other generations of my family I am concerned with the safety of all residents.

But as a citizen of the United States of America I am upset with the constant useless knee jerk legislation that does nothing for which it is written. Bills and Ordinance's that end up eroding my rights, just to make the uninformed public Feel safe and politicians trying to protect their positions look sympathetic.

We cannot legislate against Evil people, evil people will do awful things by any means whether or not there's a law. And a person with issues that are due to mental capacity or trauma need to be dealt with directly through mental health programs.

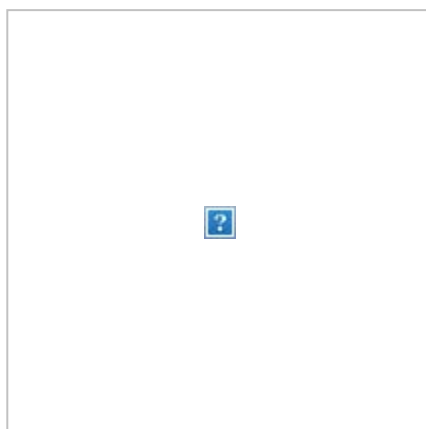
Deal with the real issues, criminals, mental health services, gangs, Kids programs, the breakdown of the family unit, education.

And stop creating Soft Targets by restricting the rights of the law abiding public to protect and defend them self's and their families.

Sincerely,  
Mike Duval

---

**From:** City of Morgan Hill <maureen@mhcrc.ccsend.com> **On Behalf Of** City of Morgan Hill  
**Sent:** Tuesday, October 2, 2018 9:31 AM  
**To:** Michael Duval <mduval@micro-mechanics.com>  
**Subject:** Provide Your Input on the Draft Anti Gun Violence Ordinance



Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



## Provide Your Input on the Draft Anti Gun Violence Ordinance

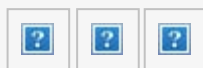
At its March 7, 2018 meeting the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Since then the City Council has been seeking direction on several potential measures in furtherance of the Council's goals, including adopting an ordinance to prevent gun violence in Morgan Hill.

Two community meetings have been held to gather input on the language to be included in the ordinance. At this time it is anticipated that the draft ordinance will be taken back to the City Council for consideration of adoption on October 17th.

Prior to returning to the City Council, we would like to provide another opportunity for the community to share their input on the draft ordinance. It is available to view at the following link [Draft City of Morgan Hill Anti Gun Violence Ordinance](#). The regular type has been part of the draft ordinance from the beginning, the strikeout is what is proposed to be deleted and language in the italics is what is currently proposed to be added.

**Comments can be submitted directly to [Maureen Tobin](#) through Friday, October 5, 2018.**

Company Name | Phone | Address | Website

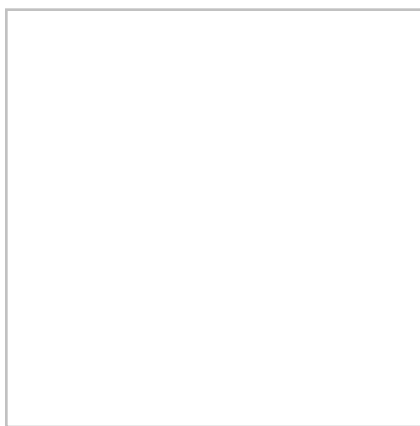


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**From:** [jim](#)  
**To:** [Maureen Tobin](#)  
**Subject:** RE: gun control ordinance  
**Date:** Friday, October 5, 2018 3:07:09 PM

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Thank you for sending this report.

I must admit I am very disappointed at Parkland being the reason for this ordinance. That is a not a good reason. There were way to many other weaknesses in that event and it wasn't guns. You can forward this to Mr. CARR and tell him Jim is disappointed in his reasoning.

Thanks. Maureen

Jim Krause

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Maureen Tobin <Maureen.Tobin@morganhill.ca.gov>

Date: 10/5/18 2:56 PM (GMT-07:00)

To: Jim <jim@jnkrause.com>

Subject: RE: gun control ordinance

Hi Jim,

It was great to see you at Kiwanis.

Thank you for your input.

At the February 21, 2018 City Council meeting, Council Members Spring and Carr issued statements of support for the Parkland community and Council Member Carr further asked the City Attorney to prepare a resolution condemning gun violence and calling for specific actions to prevent further senseless deaths. A copy of the staff report and the resolution can be found at the following link: [http://morganhillca.iqm2.com/Citizens/Detail\\_LegiFile.aspx?Frame=None&MeetingID=1720&MediaPosition=3273.490&ID=1667&CssClass=](http://morganhillca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=None&MeetingID=1720&MediaPosition=3273.490&ID=1667&CssClass=)

After adopting the resolution the Council further directed staff to update the current ordinance to agree with the resolution. That is what is prompting this.

Your input has been forwarded to the City Council, the City Attorney and the Police Chief.

Have a great weekend ahead!

**Maureen Tobin**

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

Communications and Engagement Manager

[Engage With Us!](#)

**City of Morgan Hill**

City Manager's Office

17575 Peak Avenue, Morgan Hill, CA 95037

**P:** 408.310.4706 **C:** 408.406.4076

[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)

[morgan-hill.ca.gov](http://morgan-hill.ca.gov) | [facebook](#) | [twitter](#)

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**From:** Jim <jim@jnkrause.com>  
**Sent:** Tuesday, October 2, 2018 12:40 PM  
**To:** Maureen Tobin <Maureen.Tobin@morganhill.ca.gov>  
**Cc:** jim@jnkrause.com  
**Subject:** gun control ordinance  
**Importance:** High

Hi Maureen.

Question, does Morgan Hill have a gun problem that requires this ordinance?. If so, what are the statistics?

I can understand an ordinance if we have a known problem, but I am unaware of one at this point. Also, how do you defend yourself if the weapon is locked up?

Looking forward to your response.

Thanks,

Jim Krause

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**From:** [Dave Truslow](#)  
**To:** [Maureen Tobin](#)  
**Cc:** [Donald Larkin](#); [Christina Turner](#); [Rene Spring](#); [Rich Constantine](#)  
**Subject:** Re: Draft Firearms Ordinance  
**Date:** Friday, October 5, 2018 4:45:41 PM

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It's important to acknowledge worthwhile endeavors and contributions even when one may disagree with outcomes. I very much appreciate the participation of Morgan Hill employees and elected officials.

NetNet: The storage and loss reporting provisions don't appear to seriously jeopardize personal safety. But sadly none of the 3 items improve public safety.

As per our voice mail exchange, I'm unable to determine violation consequences. San Jose imposes up to a \$1,000 fine and/or up to 6 months in jail for a safe storage violation. Saratoga's pending safe storage ordinance imposes a \$150 fine. Both Saratoga and San Jose law enforcement assert a violation would be extremely difficult ("highly unlikely") to detect. I seem recall a survey that over 99% of lawful gun owners promptly report loss anyway. I believe insurance provisions also require it. Failure to promptly report could jeopardize insurance coverage.

I visited MHPD this afternoon to obtain a permit per the current code. My interpretation is that one needs a permit to shoot children's toys such as a Nerf gun, spud gun, or soda straw spitball blowgun. I don't find exceptions for emergency signaling, theatrical performances, t-shirt cannons, athletic event starter pistols or other pragmatic and safe uses. MHPD staff was baffled (I handed over a copy of the ordinance) when I asked for a permit application. I was directed to contact City Hall staff. Drove over and the City Clerk referred me back to MHPD. She contacted Chief Swing's admin and requested that I send an email request. I very much appreciate the extra effort.

It would appear that the City of Morgan Hill has significant improvement opportunities in the administration of the current ordinance. My sense is that the current one reiterated in the draft serves as a source of ridicule and contempt - not to improve public safety.

But my major heartburn is what's NOT in the proposal versus what's in it. Morgan Hill has an opportunity to propose meaningful measures to improve public safety. Many, such as promoting Laura's Law for Santa Clara County, have no financial impact to the city. I'll be following up on the list of 25 recommendations that I previously submitted.

Best,  
 -dave truslow  
 M: 408-828-1520

On Sep 26, 2018, at 12:32 PM, Maureen Tobin  
 <[Maureen.Tobin@morganhill.ca.gov](mailto:Maureen.Tobin@morganhill.ca.gov)> wrote:

Good afternoon.

You are receiving this email because you participated in one of our recent community

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

meetings to provide input on the draft Firearms Ordinance.

Attached please find the current draft version which includes input from the first meeting. The regular type is existing, the strikeout is what is proposed to be deleted, and the italics is what is proposed to be added.

Please feel free to provide further comment through October 5<sup>th</sup>.

We appreciate your interest and participation on this important topic.

**Maureen Tobin**

Communications and Engagement Manager

**[Engage With Us!](#)**

**City of Morgan Hill**

City Manager's Office

17575 Peak Avenue, Morgan Hill, CA 95037

**P:** [408.310.4706](tel:408.310.4706) **C:** [408.406.4076](tel:408.406.4076)

[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)

[morgan-hill.ca.gov](http://morgan-hill.ca.gov) | [facebook](#) | [twitter](#)

<Draft Firearms Ordinance.docx>

## Analysis of Morgan Hill Municipal Code Chapter 9.04 Draft Proposal

The City of Morgan Hill (CMH) will be considering a gun control ordinance to modify Title 9 (Public Peace, Morals, and Welfare) of the municipal code. The original ordinance was enacted in 1970. Attached is the current ordinance with highlights.

In May, 2018, the Violation section (9.04.040) was stricken. It previously provided for a fine of up to \$1,000 and 6 months in jail. *There now appears to be no violation penalty other than confiscation by police.* Repeated inquiries to the City Manager's office have not identified any.

Interestingly, the penalties were eliminated after new gun control regulations were requested by the city council as a result of the Feb 14<sup>th</sup> Parkland FL shooting.

The attached Title 9 draft ordinance was submitted for comment to be addressed by Council in late October. Key aspects are:

### 1. Preserves 9.04.10 Discharge Permit language

Other than at a licensed shooting range, a \$25 permit is required to discharge an "instrument" and:

- a. \$1,000,000 liability insurance naming city as additional insured.
- b. Issued by chief of police. The chief has sole discretion over issuance.
- c. As defined, "instrument" includes a Nerf gun, rubber band slingshot, soda straw blow gun, ball toss dog toy, emergency signaling device, theatrical prop, paintball, Airsoft, compressed air rocket toy, party popper, corked carbonated beverages, radio controlled aircraft, nail gun tool, and similar benign devices.
- d. Presumably subjects violators to citizens arrest (PC 837) and as supported by the Supreme Court's "breach of peace" ruling in the 2001 *Atwater v. Lago Vista* case.
- e. MHPD counter staff were baffled when a discharge permit application was requested and the current ordinance was provided to them. Staff were unable to provide the permit application or provide any guidance other than to contact city hall.
- f. The ordinance renders activities such as historical reenactments, celebrations (e.g., July 4<sup>th</sup> and Veterans Day), and theatrical performances as violations unless a \$1,000,000 insurance policy and MHPD permit is obtained. Evidently, no discharge permits have been issued for these events.

### 2. 9.04.020 Posting of Regulations

- a. Sellers of such benign objects, in addition to those that sell firearms and BB guns, are required to post "in a conspicuous place in the place of sale, a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device."
- b. Dave Lokey (Lokey Firearms) asserts Morgan Hill officials fail to enforce, inform him, or otherwise provide guidance in the 6+ years of operating a gun store in Morgan Hill. No others have been identified where the City of Morgan Hill has notified sellers or otherwise enforced this provision.

## Analysis of Morgan Hill Municipal Code Chapter 9.04 Draft Proposal

- c. The ordinance effectively prohibits school JROTC air rifle programs. Such ranges are exempted from licensing since no explosive propellant is used. It would appear that a \$1,000,000 insurance policy and permit is required for each student.

### 3. Adds 9.04.030 Duty to Report

Crime victims are revictimized by this provision. Stolen guns must be reported to MHPD within 48 hours of loss or when the crime victim should have reasonably known of loss (however that is determined).

CA law provides for a 5 day reporting window. Federal law requires gun dealers to report within 48 hours of loss discovery. and omits the 'should have reasonably known' provision.

- a. ATF reports the average recovery time exceeds 11 years. Only about 11% are recovered.
- b. 1.9% of stolen gun were used in crime based on a 5 year study (Memphis, TN).
- c. Lawful gun owners promptly report loss: 99% according to one study. Most insurance policies require prompt notification.
- d. GAO concludes that none of the mandatory reporting windows has improved recovery or reduced recovery time.

The provision clarifies where to report (MHPD) – CA law specifies 'local law enforcement', but otherwise serves no useful purpose. It suggests that MHPD is not promptly notified by other law enforcement if reported elsewhere, but no supporting facts have been provided.

### 4. Adds 9.04.050 "Prohibition of Large Capacity [sic] Magazines

- a. Terminology: standard capacity for the popular Glock G17 9mm handgun is 17 rounds. Glock defines *large capacity* as greater than 17 rounds for a G17. CA limits magazine sales to 10 rounds.
- b. Owners must remove magazines larger than 10 rounds from Morgan Hill, surrender to MHPD, or sell / transfer within 90 days of the ordinance's effective date. Exempts law enforcement, military, gunsmiths, forensic personnel, those licensed by CA, and several other protected classes when operating within the scope of their duties.
- c. The 9<sup>th</sup> Circuit blocked enforcement of CA's magazine capacity restriction (*Duncan v. Becerra*) in July, 2018. Presumably this would likewise apply to Morgan Hill.
- d. There is no rational basis to limit magazine capacity nor is it practical to detect:



## Analysis of Morgan Hill Municipal Code Chapter 9.04 Draft Proposal

- Redundant given CA magazine capacity law.
- Parkland, FL shooter Nikolas Cruz used 10 round magazines “because larger ones were too big for my backpack”.
- At the May 2018 Firearms Summit organized by Supervisor Dave Cortese, several gun owners asserted their tactical reload time (swapping magazines) is well under 2 seconds. Like Mr. Cruz, one can simply carry more magazines to maintain a volume of fire.
- As mentioned at the input meeting attended by MHPD Chief Swing, city attorney Larkin, and council members Constantine and Spring, many magazines are easily converted from 10 round to larger capacities using a small screwdriver. The outward appearance doesn’t change, nor is readily detectible unless each is loaded to capacity.

### 5. Adds 9.04.040 “Safe Storage”

- a. Requires firearms (as defined in CA PC 16520) to be stored in a locked container or disabled with a CA approved firearms safety device when “unattended”. “Unattended” is not defined nor is an operational definition clear.

Does this mean the firearm is “not supervised or looked after” (dictionary definition)? The firearms owner lacks line of sight visibility to the firearm? In the immediate vicinity? Not under custody and control (which could also violate current CA law)? Must be carried on the owner? The residence is unoccupied (e.g., firearms must be secured before stepping outside to sweep the porch)? Beyond the curtilage (i.e., firearms must be secured beyond the immediate vicinity of the residence)? Or something else?

CA (PC 25100-32015) law uses the phrase “custody and control” – not “unattended”. The distinction is between the proposed ordinance language and existing CA law is unclear.

- b. The proposal would include cannons, display antiques, and bespoke firearms. There is no practical means to secure some residential cannons under the ordinance.

As mentioned at the input meeting, cable and trigger locks do not fit and would damage many antique firearms. Some firearms cannot be secured without rendering them unsuitable for self-protection. There does not appear to be a practical means to comply with the proposed language in some instances.

- d. Authorities claim “The average burglar takes less than a minute to break into your home and overall 8 to 12 minutes to get out again.” Tests confirm that only a few seconds are required to kick-in a typical residential door.

## Analysis of Morgan Hill Municipal Code Chapter 9.04 Draft Proposal

Under ideal conditions, the average time to free a cable locked semi-automatic handgun by experienced owners was measured at 86 seconds. Additional time is needed to insert a loaded magazine and 'make ready' for self-defense.

Unless "safe storage" allows rapid, unencumbered access, the provision prevents residential self-defense. Vulnerable elderly and physically impaired residents are at greater risk.

f. The ordinance unfairly targets only residential property – not commercial or other property.

g. From a practical standpoint, the storage ordinance is virtually unenforceable per testimony by SJPD Chief Garcia before the San Jose city council.

h. The RAND Corporation found that Child Access Prevention laws "reduce all firearms self-injuries (including suicide) among young people [ages 14-20]." "Evidence for the effect of child-access prevention laws on mass shootings is inconclusive." "Evidence for the effect of child-access prevention laws on violent crimes generally and on specific violent crimes is inconclusive." The proposed ordinance is not limited to households with those under 18 (per CA law), but to all households.

### 6. Adds 9.04.070 Confiscation

a. Fails to require that MHPD provide written notice of time-frames and procedures to recover confiscated property as courts have required elsewhere.

b. Fails to compensate owner for loss of property.

c. Unclear if consistent with 4<sup>th</sup> Amendment case law and therefore putting CMH at litigation risk.

### 7. Maintains 9.06 – Imitation Weapons

It shall be unlawful for any person to possess or display an imitation firearm on public property, in the public right of way, or in an area viewable from public property or the public right of way unless authorized in writing by the chief of police. An imitation firearm means a replica of a firearm that is so substantially similar in visual characteristics to an existing firearm as to lead a reasonable person to believe that the replica is a firearm that could be operational.

a. Fails to state that authorization shall not be unreasonably withheld.

b. Gratuitous since CA PC 20150-20180 delineates lawful use.

## Analysis of Morgan Hill Municipal Code Chapter 9.04 Draft Proposal

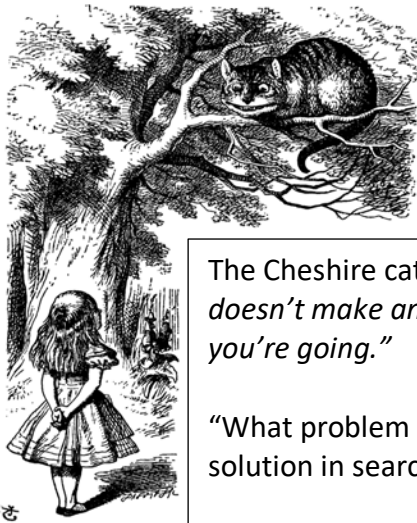
### SUMMARY

As MHPD Chief Swing asked at the input meeting, “What problem are we try to solve?”

- Other than “safe storage” in households with minor children, the alleged public safety benefit is purely speculative and unsubstantiated.
- The proposed ordinance omits an operational definition of “unattended” firearm. It prohibits self-defense and reduces public safety if firearms are to be in locked containers at all times. It burdens MHPD with vague, unenforceable ordinances while current ordinances are unenforced.
- The City of Morgan Hill does not appear to enforce or notify gun stores and others of the posting and literature distribution requirement that was enacted in 1970.
- MHPD was baffled and unable to provide a discharge permit when requested. This provision has been in the municipal code since at least 2004; perhaps since 1970.
- The scope of unpermitted and thus prohibited “instruments” is breathtaking. No reasonable person would expect that a \$1,000,000 insurance policy and \$25 permit is required to use a nail gun, a harmless toy, or participate in a historical reenactment or patriotic celebration. But as written, the ordinance includes such devices and activities.
- CA’s preemption laws would seem to apply to several provisions.

***The most glaring criticism is the failure to propose effective and sensible measures. There is a failed opportunity to clarify and rationalize the municipal code. Sensible and proven public safety improvement measures have not been included - see attached list of 25.***

Many pose no regulatory or financial burden on the city. Others may incur minor costs, but the startup and recurring costs can be offset by grants and donations. Unlike the draft proposal, strong evidence supports their consideration.



The Cheshire cat’s observation to Alice is an appropriate conclusion. “*It doesn’t make any difference how you get there if you don’t know where you’re going.*”

“What problem are we trying to solve?”\* The proposed ordinance is a solution in search of a problem.

\* MHPD Chief Swing

## Firearms Public Safety Proposals v1-2-7

(draft for discussion purposes – v1.2.7 – 8/30/18. Dave Truslow, E: dtruslow@sonic.net)

Consider ‘what works’ proposals that address:

- Education
- Detection
- Prevention
- Correction
- Casualty minimization

**Where to focus:** School shootings? Suicides? Terrorist shootings? Gang shootings? Gun theft? Other? As MHPD chief Swing asked at the input meeting, “What problem are we trying to solve?”

**Management By Objectives:** what timeframe to observe improvement, where, and how much?

**Cost / benefit:** what are the parameters? Example: Stanford has been reported to use \$9 million to estimate the value of life for patients awaiting transplants. What parameters should be used for risk assessment and threat mitigation? How do we know how much to invest and what’s sufficient?

No	Suggestion	Considerations
1	Identify Armed Prohibited Persons just as we do for registered sex offenders. Once determined to no longer possess firearms, then names should be promptly removed from the APP list.	Have legislature make APP list public. Use PD / SO to clear those on APP list. Unlike sex offenders, the APP list is confidential and only available to law enforcement. The most recent CA DOJ figures claim over 10,000 state residents on APP list. Very slow clearance rate by state. CA recidivism rate: 52%.
2	Ensure enforcement of court-ordered firearms possession bans from SCC Superior Court or other jurisdictions.	No enforcement or confirmation per claims at March 6 <sup>th</sup> Board of Supervisors meeting.
3	Audit reporting by LEO, mental health treatment, and other SCC communities consistent with ATF 4473 form.	Fed & CA DOJs claim inconsistent reporting allows gun purchases that should be prohibited.  Guns used in Charleston, SC and Sutherland Springs shootings could not have been legally purchased had correct reporting procedures been followed.
4	Support proposals to make firearms theft a felony.	Join with other SCC cities to urge CA legislature to reinstate gun theft as a felony. Currently any theft less than \$950 is a misdemeanor. Virtually all gun-related violent crime involves firearms costing less than \$950.  Misdemeanor offenders are not subject to deportation, nor reported to ICE under sanctuary policies.

4	Have LEO participate in free Project Child Safe gun lock giveaway program.	Helps to increase public awareness for safe storage and theft reduction.
5	Conduct public education program for safe storage.	Compliance increased from about 11% to about 65% when education was incorporated into a safe storage program. <u>No harm reduction benefit found in meta-analysis</u> (Epidemiological Reviews, Jan 2016)
6	Offer discount coupons for lockable gun storage containers.	Perhaps funded from buy-back auctions. GAO (2017) study cites “safe storage” compliance went from 5% to 65% when equipment provided.
7	Support community crime prevention education programs such Refuse to Be A Victim program.	Grants are available for instructional material. Instructors may donate their time. Partner with LEO.
8	Ensure the free Eddy Eagle gun or equivalent safety program is encouraged for young children.	Grants are available for instructional material. Instructors may donate their time. Partner with LEO.
9	Schools to have their safety programs reviewed and assessed.	Available from the free School Shield program. Grants are available to implement recommendations. Partner with LEO. SJPD conducts assessment for San Jose Unified School District.  NB. Some “active shooter” recommendations conflict with ‘best practices’ recommendations and can result in higher casualties.
10	Investigate arming school resource officers.	Abundant evidence that rapid armed responses save lives. SJPD provides armed school officers in contract with SJUSD.
11	Offer active shooter assessments and training to churches, temples, and other venues with sizeable attendance.	Several organizations offer free active shooter training.
12	Deploy education and means for gun and ammunition disposal.	Partner with LEO. Studies show gun buy-back programs don’t reduce crime, but important to make disposal convenient.  NB. SJPD accepts ‘no questions asked’ gun and ammo disposal. SCC SO has offered an annual program, but disposal not otherwise available.
13	Audit LEO firearms evidence inventory & procedures and compliance with new state vehicular transport law.	Mercury News reported Bay Area LEO as a primary source of lost guns – 944 based on an incomplete study.  Many guns stolen from law enforcement vehicles.

14	Provide gun lockers for LEO private vehicles such as implemented for SCC sheriff officers.	Many guns stolen from LEO private vehicles.  Important for armed off-duty officers to be able to promptly respond to crime. To avoid 'gift of public funds', organize charitable donations. \$35,000 raised to equip SCC SO private vehicles with gun lockers.
15	Review LEO firearms training, qualification procedures & preparedness for consistency with 'best practices' and 'worse case' scenarios.	NYPD reports less than 1 of 5 shots hit target resulting in 'spray and pray' accusations and liability for collateral damage. Note: Informal survey of 8 SCC LEO: not one knew their tactical reload time. Average gun fight distance: FBI says 10', PMA study says 20'.
14	Review adequacy and effectiveness of mutual aid agreements with adjacent LEOs.	Numerous problems identified in Parkland FL and elsewhere including incompatible communication equipment.
15	Review benefit of various untapped LEO grants.	Free training ammo is available for LEO.
16	Evidenced-based programs and data collection	Craft and emphasize initiatives that work. Support and adjust based on scientific management (monitoring and goal setting).
17	Implement criminal and civil penalties for school officials that fail to report as required under CA Education Code 48902 or Penal Code 245.  Verify school district policies and procedures to mandate reporting in conformance with CA Education Code of reporting misdemeanors and felonies to law enforcement.	Currently no consequences for failure to report. School shootings often preceded by "red flag" misdemeanor or felony acts that go unreported.
18	Enact Laura's Law in SCC to treat the dangerous mentally ill.  Implement behavioral health screening and reporting requirements.	CA's Education Code does not require screening or mental health assessment.  Health care providers have no duty to report individuals likely to harm themselves or others. Many homicides, including SJPD officer Johnson's could have been prevented (see SCC DA's report) had health care professionals acted.  SCC Behavioral Health Board could not identify published risk criteria for assessing harm to self or others.  Approximately 2/3rds (61%) of all gun deaths are suicides.
19	Monitor social media.	Shootings often preceded by "red flag" social media messages. LEO monitors sex trafficking. Unclear about suicide or homicide risk monitoring.

20	Verify hospital & EMS procedures for response to mass shooting.	Does not appear to be documented in County emergency procedures.  Identification and travel time to Level 1 trauma treatment?
21	Increase awareness and publish statistics for effectiveness of restraining orders.	CDC domestic violence report (July 2017). Studies indicate up to 80% of restraining orders are violated.
22	Issue CCWs	Saves substantially more lives than many other proposals. SCC Sheriff virtually never issues. Other LEO can issue. Domestic violence claims lives of unprotected . See CDC report (July 2017) and J. Am Acad Psychiatry Law 38:376–85, 2010.  FBI Active Shooter report (2016-17) cites advantages: <b><i>“Armed and unarmed citizens engaged the shooter in 10 [of 50] incidents. They safely and successfully ended the shootings in eight of these incidents. Their selfless actions likely saved many lives.”</i></b>  NB: In 6 incidents, armed citizens stopped additional casualties per FBI.
23	Important for law enforcement to be able to promptly respond to crime.	CA law prohibits armed response by off-duty officers to school incidents. Need to change state law.
24	Outreach to seniors and family members for selling or transferring unwanted firearms owned by those with low cognizant abilities or terminally ill.  Review effectiveness of suicide prevention and physician assisted suicide programs.	Encourage disarming those with low cognizant abilities. This seems a primary factor in the officer-involved-shooting of an armed 86 year old in Saratoga  Suicide is responsible for about 2/3 <sup>rd</sup> of gun deaths. Seniors (65+) rate is 34% higher than average.
25	Determine and assess public safety critical response capability.	What threat level and response level should public safety (PD/FD) achieve? What standards?

Legend: LEO – Law Enforcement Organization; PD/FD – police department / fire department;  
SCC – Santa Clara County; SO – sheriffs office



**From:** [Donald Harley](#)  
**To:** [Maureen Tobin](#)  
**Cc:** [MICHAEL BROOKMAN](#)  
**Subject:** Comments on Draft Anti Gun Violence Ordinance  
**Date:** Friday, October 5, 2018 6:49:26 PM

---

Hello Maureen,

Thank you for the opportunity to review this document. My comments for the Draft Anti Gun Violence Ordinance pertain to the entire ordinance, not just the changes made for this draft, because I had not had an opportunity to review any previous versions of the Draft. As such I will get right to the point and focus on my most serious concerns.

9.04.010-A The scope of the ordinance as provided in the first paragraph is overly broad. Specifically, it identifies as applicable to the ordinance "...any instrument or device of any kind, character, or description which discharges, propels or hurls bullets, or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the Chief of Police". This identification would cover a wide variety of devices that are not (and should not) illegal to own or use in the state of California. Some examples of toys that would fit this identification would include dart guns that shoot suction cup darts designed to stick to a target, Nerf guns that shoot harmless soft projectiles, paint guns that shoot harmless capsules of paint, and other harmless toys. More concerning, some construction tools would also fit the above identification, including nail guns, staple guns and paint sprayers. Common household items such as staplers and aerosol sprayers and squirt guns could even be construed to fit the description. It should be obvious that the scope identification in the ordinance is overly broad.

Also, many low power weapons are commonly available and are typically not illegal to use on a person's own property, including BB guns, pellet guns and bows and arrows. These potentially harmful items may be appropriate for regulation under circumstances that could inadvertently injure unsuspecting persons not on the private property where the items are being used by the owner of the property. For example, it should not be a violation to kill a poisonous snake using these items on your own property.

Finally, it should not be any kind of violation to use any legally owned weapon, including even firearms, for self defense within your own home. You should not need a license to save your own life or that of your family within your own residence. As such, there should be some exclusions in the ordinance that recognize that it is not illegal to use a firearm (shoot it legally) and even cause injury to your attacker under circumstances defined in existing law.

9.04.010-C.2 This paragraph could be considered an example of class discrimination. One million dollars of liability insurance would be very expensive for a low income family and should not be required for many, if not most of the items covered under 9.04.010-A above.

9.04.050-C.9 This paragraph appears to be, in part, redundant with CCW permit law which should identify when a CCW permit is needed to carry a firearm, and exclusions, if any, for retired peace officers. This paragraph should read "Any retired peace officer". If a retired officer is already required by law to have a CCW permit to carry a firearm, then if he doesn't have the CCW permit then he is by definition breaking a more severe law than this ordinance if he shoots his gun in a manner that violates that law. I suggest that you think seriously about whether it is a good idea in these times to discourage a retired peace officer from carrying a gun when he/she could be the only means to take down an active shooter in public.

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



**From:** [Tony Wilson](#)  
**To:** [Maureen Tobin](#)  
**Subject:** Comment of disapproval  
**Date:** Saturday, October 6, 2018 8:53:28 AM

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Maureen,

I have read the proposed draft to The City of Morgan Hill Title 9 and find it to be in conflict with the The Constitution of The United States.

The questions I will ask:

- 1) How exactly will these amendments and bans stop gun violence?
- 2) What information was used by the City Council to determine no more than 10 rounds of ammunition would ever be needed for a citizen in self defense of ones life?
- 3) What is the legal penalty for a law abiding citizen in violation of this ordinance?

I have forwarded a copy of this Draft to the NRA, and legal counsel for the CRPA for review.

As a law abiding citizen of The City of Morgan Hill, I wish to voice my opposition to these amendments!

Respectfully,

Tony Wilson  
(408) 710-1114

Sent from my iPhone

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**From:** [Brenden](#)  
**To:** [Maureen Tobin](#)  
**Subject:** Anti-Gun Violence Comments  
**Date:** Friday, October 5, 2018 4:35:41 PM

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Hi Maureen, here are my comments on the "Anti Gun Violence Ordinance".

My name is Brenden Azevedo and have been a Morgan Hill resident on and off for close to 15 years. For all intents and purposes I grew up on this community. I was a police cadet for the city for one year, shortly afterwards I moved to Idaho where I was correctional officer for close to four years and a parole agent for two. I have a bachelors degree in Criminal Justice.

The language included in "9.04.010" would require a permit for children to shoot B.B. Guns or air soft rifles in the backyards of their own homes. Do we really need citizens to have to get a permit in order to kill a rat on their property with an air gun? Does the city also want a permit for children to shoot model rockets into the sky? I don't see a necessity for this law. If the city is concerned with damage being caused by such activities it can be handled through California's laws on destruction of property or when you hurt another person. A permit process would simply add to an increase burden on police. I imagine that overall compliance with such an ordinance would be low to begin with, as would the priority of it during a police call for service. There are simply more important things to be concerned about that take up police time.

9.04.040

State law already requires that all firearms when purchased from a federal license gun dealer either are accompanied by a lock OR that the purchaser has access to a firearm safe for safe storing of the firearm. It is already against state law for others to have access to one's firearms outside of their immediate presence and it is also against the law for children to be able to have access as well. This ordinance would make it illegal for a gun owner to keep a gun on the nightstand and to then return it to the safe prior to leaving for work. Punishment should be reserved for those who steal firearms and those that leave them accessible to children.

9.04.050 and 9.04.060

"New" high capacity magazines have been illegal to purchase, import, etc since January 1st, 2000. I don't recall there being a large crime spree in Morgan Hill being committed that involved "high capacity magazines" and I don't see magazines that have been in the possession of Morgan Hill residents for 18 years are now suddenly deemed unsafe. If these magazines are unsafe for the regular citizens of the city to possess then surely they are just as dangerous to members of our police force. Does a confiscated magazine no longer become a public nuisance when in police hands?

We already have laws (felonies I might add) for people using firearms in the commission of a crime. We don't need to confiscate magazines that have been in the possession of Morgan Hill residents to remain safe. Magazines are simply pieces of spring and metal or plastic. We should be concerned with the reasons people use guns and combating actual crime, not what can be easily made with a CAD drawing and a trip to Home Depot.

Furthermore, there is currently an injunction against the State of California in the 9th Circuit

(Duncan v. Becerra) stopping the State California from banning High Capacity Magazines.  
See <http://www.sandiegouniontribune.com/news/courts/sd-me-magazine-ruling-20180717-story.html>

The city can send me a personal check instead of being added to the litigation process which would be the inevitable result if this ordinance is passed.

Thank you,

Brenden

**From:** [Tom Rigo](#)  
**To:** [Maureen Tobin](#)  
**Subject:** Re: Provide Your Input on the Draft Anti Gun Violence Ordinance  
**Date:** Friday, October 5, 2018 1:07:40 PM

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Hi Maureen,

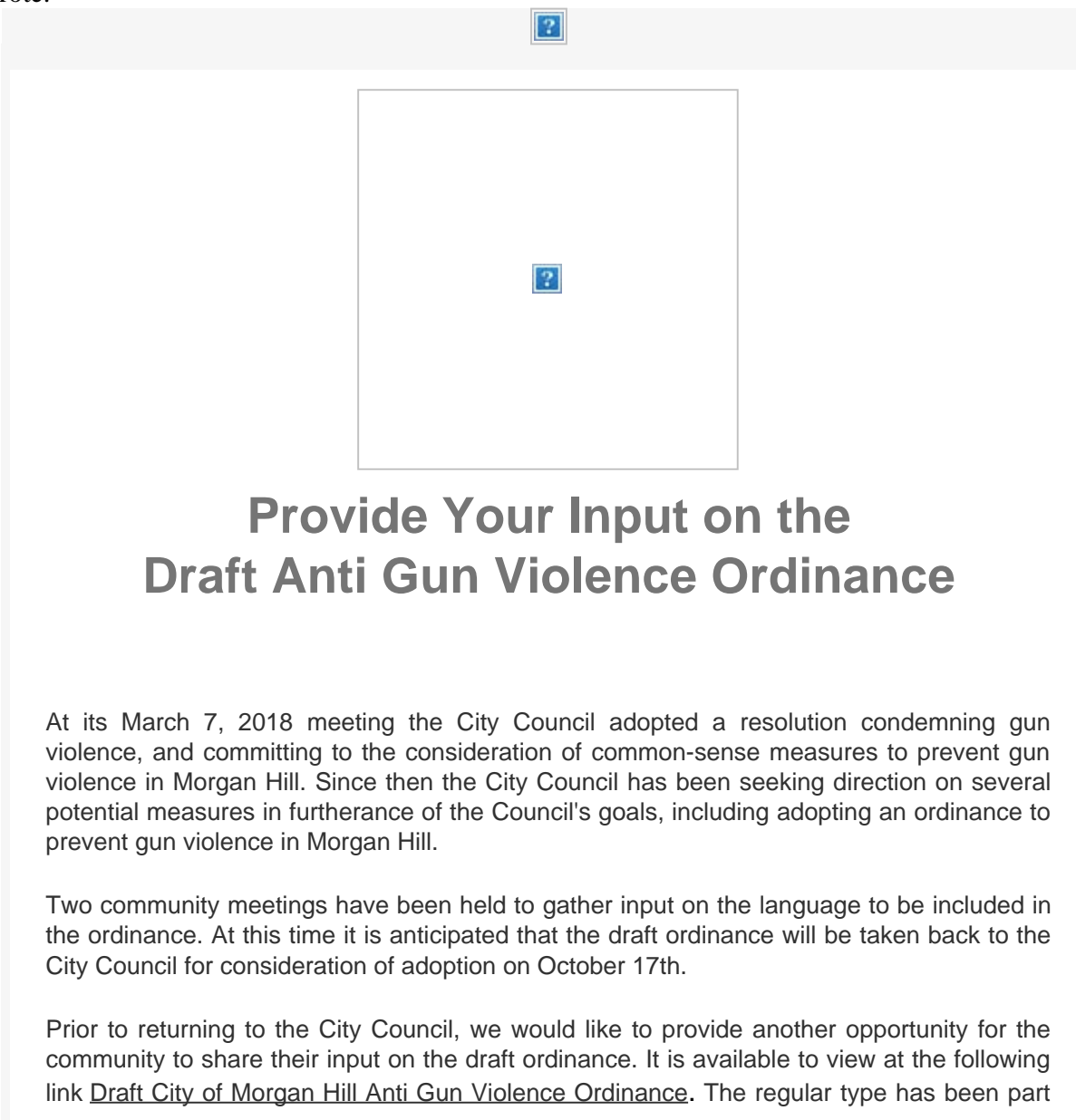
Here are my comments on the draft ordinance.

Paragraph 9.04.010

1. Paragraph A - Strike reference to air pressure from line 4.
2. Add paragraph E to add exclusion for protection of personal property.

thanks Tom Rigo

On Tue, Oct 2, 2018 at 9:31 AM City of Morgan Hill <[maureen.tobin@morganhill.ca.gov](mailto:maureen.tobin@morganhill.ca.gov)> wrote:



The screenshot shows a web form for providing input on a draft ordinance. At the top, there is a header bar with a question mark icon. Below this is a large rectangular area, also containing a question mark icon, likely for a title or subject line. The main heading of the form is "Provide Your Input on the Draft Anti Gun Violence Ordinance". The body of the form contains three paragraphs of text explaining the context and purpose of the draft ordinance, and providing information about community meetings and where to find the draft text.

**Provide Your Input on the Draft Anti Gun Violence Ordinance**

At its March 7, 2018 meeting the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Since then the City Council has been seeking direction on several potential measures in furtherance of the Council's goals, including adopting an ordinance to prevent gun violence in Morgan Hill.

Two community meetings have been held to gather input on the language to be included in the ordinance. At this time it is anticipated that the draft ordinance will be taken back to the City Council for consideration of adoption on October 17th.

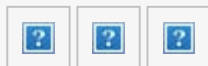
Prior to returning to the City Council, we would like to provide another opportunity for the community to share their input on the draft ordinance. It is available to view at the following link [Draft City of Morgan Hill Anti Gun Violence Ordinance](#). The regular type has been part

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

of the draft ordinance from the beginning, the ~~strikeout~~ is what is proposed to be deleted and language in the *italics* is what is currently proposed to be added.

**Comments can be submitted directly to Maureen Tobin through Friday, October 5, 2018.**

Company Name | Phone | Address | Website

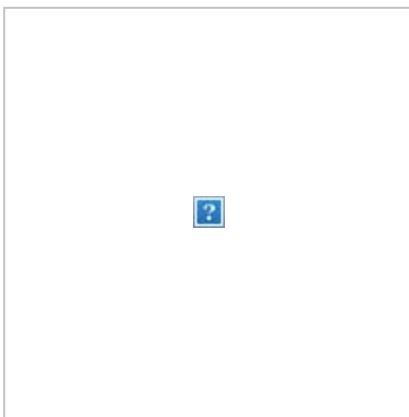


City of Morgan Hill | 17575 Peak Avenue, Morgan Hill, CA 95037

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Sent by maureen.tobin@morganhill.ca.gov in collaboration with



Try it free today

**From:** [Rene Spring](#)  
**To:** [Christina Turner](#); [Donald Larkin](#); [Maureen Tobin](#)  
**Subject:** Fwd: Anti Gun Violence Ordinance  
**Date:** Friday, October 5, 2018 8:26:48 AM

---

Sent from my iPhone

Begin forwarded message:

**From:** Oz M <[joswaldomendoza@gmail.com](mailto:joswaldomendoza@gmail.com)>  
**Date:** October 4, 2018 at 8:02:40 PM PDT  
**To:** [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)  
**Subject:** Anti Gun Violence Ordinance

Hello Mr. Spring,

I wanted to share that I do not approve of the Council and or Major considering the Anti Gun Violence Ordinance.

The Ordinance is very Intrusive to people's rights to defend themselves. It is also misleading as to what the City Police and laws do or can do to restrict self defense rights for law abiding citizens.

Laws are not for criminals, criminals don't care about laws; they are to restrict its citizens.

This Ordinance will make you a felon if you accidentally discharge a sling shot, pellet gun, bow, or gun.

I don't want to live in a city that can make my son a felon for playing in their yard.

Our country and State allows us the right to arm ourselves and protect our life and family from life attacks.

This Ordinance takes away any and all of those rights based on "Common Sense" and turns them into a permission driven local society. I believe this to be very totalitarian. It turns all law abiding citizen's into victims waiting to happen.

I have been in places with similar laws before, they were run by socialist and in countries South of here.

I urge you to vote against this "Common Sense" Anti Gun Ordinance.

Thank you,

Jose Mendoza

I live in the Capriano neighborhood

I would give you my address but I am a little afraid of the local government stand.

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



From: [Michelle Bigelow](#)  
 To: [Michelle Bigelow](#)  
 Subject: FW: Proposed "ORDINANCES TO PREVENT GUN VIOLENCE"  
 Date: Monday, October 15, 2018 11:00:29 AM

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**From:** Jerry Jeska <[vjeska@aol.com](mailto:vjeska@aol.com)>  
**Sent:** Friday, October 12, 2018 1:06 AM  
**To:** Steve Tate <[Steve.Tate@morganhill.ca.gov](mailto:Steve.Tate@morganhill.ca.gov)>; Caitlin Jachimowicz <[Caitlin.Jachimowicz@Morgan-Hill.ca.gov](mailto:Caitlin.Jachimowicz@Morgan-Hill.ca.gov)>; Rich Constantine <[Rich.Constantine@morganhill.ca.gov](mailto:Rich.Constantine@morganhill.ca.gov)>; Larry Carr <[Larry.Carr@morganhill.ca.gov](mailto:Larry.Carr@morganhill.ca.gov)>; Rene Spring <[Rene.Spring@morganhill.ca.gov](mailto:Rene.Spring@morganhill.ca.gov)>  
**Cc:** Irma Torrez <[Irma.Torrez@morganhill.ca.gov](mailto:Irma.Torrez@morganhill.ca.gov)>  
**Subject:** Proposed "ORDINANCES TO PREVENT GUN VIOLENCE"

Dear Morgan Hill City Council Member:

RE. -- "PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE" Direct the City Attorney to draft, for Council consideration, ordinances:  
 1. Creating a duty to report the theft or loss of firearms 2. Requiring the safe storage of firearms when not in use 3. Prohibiting the possession of large capacity magazines 4. Requiring a permit to conduct retail firearms sales

Why must an owner be required to keep relic and antique replica firearms locked up? If your concern is that burglars have access to them, in particular to commit crimes, rest assured that such firearms are almost useless for that purpose. Criminals want modern, particularly semiautomatic, handguns, not WWI and WWII vintage, bolt-action rifles, which many of your constituents collect. Criminal elements have no use for pre-twentieth-century firearms such as muzzle-loading rifles or Civil War cap & ball pistols, be they originals or replicas. Such pieces will not operate with modern ammunition and are often single shot weapons. Very few members of our twenty-first-century society would even know how to load some of them. I admit a bit of exaggeration when I suggest that the last murder committed with a WWII vintage rifle was committed from a famous book depository in Dallas, TX in Nov. of 1963.

Not only would this "safe storage" provision not deter theft of relics and antique replicas, it would fail to prevent suicides (by far the most common cause of firearm deaths). The adult male of a household, who statistics tell us commit the preponderance of suicides, would usually be the family member in possession of a safe combination or lock's key. The measures considered would prevent absolutely no suicides.

Please recognize that many of these relics and replicas are used as display pieces, the appearance of ruined by trigger locks. On muzzle-loading rifles and shotguns, the entire trigger guard can be removed with a common screwdriver, trigger lock included. (Please inspect the attached photo of items I built from kits to see how simply the trigger guard can be removed to take off a trigger lock. Also note how use of a trigger lock would compromise the appearance of a display.) Some late nineteenth-century revolvers do not even have trigger guards to hold the lock. Indeed, anything not welded can be disassembled. Moreover trigger locks can be removed from any firearm via use of an electric drill or other tools.



Theft of long guns and their subsequent use for criminal activity is not a problem and the city should not require that long guns, in be locked up. According to reports by former state Attorney General (now US Senator) Kamala Harris, long guns are used in only about 3% of gun crimes.

<https://www.oag.ca.gov/sites/all/files/agweb/pdfs/publications/firearms-report-15.pdf>

<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/firearms-report-14.pdf>

Do realize that gun owners do not like being stolen from, particularly if the item is a family heirloom. Hence they commonly take reasonable precautions of their own volition—burglar alarms and locks and safes of their own volition and discretion. Rather than infringe upon a resident's constitutional rights, the city should look at the several alternate proposals offered by Mr. Dave Truslow. One is to make use of the Child-Safe program offering free locks, something the city has not availed itself of. Another is to work with other governmental agencies to establish firearm theft a felony, as opposed to a misdemeanor unless the value is over \$900. Please review the suggestions I understand Mr. Truslow has offered

Also please consider that, if someone commits a home invasion, unlocking a firearm or retrieving it from a safe takes time, critical time. The key to a locked box or trigger lock cannot be left with the firearm or there is no point in locking the firearm, except for legal compliance. Awakened drowsy from sleep further delays access to the firearm needed for safety's sake.

Does Morgan Hill even have a problem with firearms being stolen and used for criminal purposes? Certainly not antiquated or replica relics. Why require a permit to sell relics and replicas?

Theft of any legally owned firearms will be divulged in a police report submitted even if only to secure insurance compensation. The state has already mandated a time limit in reporting. The proposal is redundant.

In summation, the city should not require the locking of antiquated firearms or long guns. Such items would not be a target for criminals and would be useless to them. Locking firearms would not prevent suicides, the preponderance of firearm deaths. While compromising a resident's safety and constitutional rights, doing so would serve no purpose. Each resident/family should be able to assess his/her own personal situation and make the appropriate decisions for familial safety, not the city. Neither should the city require licensing for the sale of constitutionally protected firearms or mandate a time stipulation on reporting firearm theft. The city should give due consideration to the alternate proposals suggested by Mr. Dave Truslow, proposals which would enhance firearms safety in Morgan Hill.



Be assured I appreciate your time and attention.

Regards,

Jerry P. Jeska  
MA, history











## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:04 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Gun Ordinance

**From:** Joe Koppi <[jtbone80@icloud.com](mailto:jtbone80@icloud.com)>  
**Date:** October 14, 2018 at 1:26:12 PM PDT  
**To:** [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)  
**Subject:** Gun Ordinance

Dear Mr. Spring

I am writing to you to voice my opposition to the gun control ordinance up for a vote by your council Oct 24th.

There is already a law on the books in California, forbidding the discharge of a firearm within 150 yards of an occupied residence. This law alone covers nearly all of residential Morgan Hill. The exception of course, is in cases of self-defense against home invasions. The Supreme Court has made it clear, the 2nd amendment gives an individual the right to defend life and property with a firearm.

This ordinance goes way too far. It requires, even to discharge a gas-powered device (like a BB gun, Nerf Gun, Paintball gun or spring-operated airsoft pellet gun), an expensive liability insurance policy which only the rich can afford. It also requires you ask from "The State" (in this case the chief of police) for permission to safely and responsibly do, what the US Constitution already gives you the right to do.

This is another case of government overreach. Converting our rights and responsibilities into "privileges". It is effectively a "Ban" on all guns and anything even "looking like" a gun. Please vote "No" on this ordinance, and let's come up with gun laws thoughts and will keep them in mind. Your last line sums up my goal pretty well, ...let's come up with gun laws that actually keep guns from criminals. (I would add: and children and the mentally ill.)

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:04 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Gun Control Ordinance

**From:** Matt Wendt <[matthewwendt@msn.com](mailto:matthewwendt@msn.com)>  
**Date:** October 12, 2018 at 2:41:39 PM PDT  
**To:** [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov), [caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov), [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov),  
[Rich.Constantine@morganhill.ca.gov](mailto:Rich.Constantine@morganhill.ca.gov), [larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov)  
**Subject:** Gun Control Ordinance

Mayor and Councilmembers,

I am writing to voice my objection to the proposed gun control ordinance on the agenda for the upcoming meeting.

While I share your concern for our residents' safety, gun control laws in CA are already one of the most restrictive in the nation. I haven't had a chance to do any legal research to see if this proposed ordinance even looks constitutional, but it reads like it is all-encompassing and is too subjective for me. More importantly, I believe this is a federal and state law issue.

Please do the right thing and vote against this proposed ordinance.

Matt Wendt

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:03 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Gun Control ordinance Oct 24th

**From:** "David Beasley" <[dbeasley@beasleydirect.com](mailto:dbeasley@beasleydirect.com)>  
**Date:** October 12, 2018 at 11:02:49 AM PDT  
**To:** <[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)>  
**Subject:** Gun Control ordinance Oct 24th

Dear Mr. Spring,

I am writing to you to voice my opposition to the gun control ordinance up for a vote by your council Oct 24<sup>th</sup>.

There is already a law on the books in California, forbidding the discharge of a firearm within 150 yards of an occupied residence. This alaw alone covers nearly all of residential Morgan Hill. The exception of course, is in cases of self-defense against home invasions. The Supreme Court has made it clear, the 2nd amendment gives an individual the right to defend life and property with a firearm.

This ordinance goes way too far. It requires, even to discharge a gas-powered device (like a BB gun, Nerf Gun, Paintball gun or spring-operated airsoft pellet gun), an expensive liability insurance policy which only the rich can afford. It also requires you ask from "The State" (in this case the chief of police) for permission to safely and responsibly do, what the US Constitution already gives you the right to do.

This is another case of government overreach. Converting our rights and responsibilities into "privileges". It is effectively a "Ban" on all guns and anything even "looking like" a gun. Please vote "No" on this ordinance, and let's come up with gun laws that actually keep guns from criminals.

Sincerely,

David Beasley  
 Morgan Hill Resident

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 10:58 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Proposed Morgan Hill Gun ordinance

**From:** Mark Hinkle <[mark@garlic.com](mailto:mark@garlic.com)>  
**Sent:** Wednesday, October 10, 2018 7:30 PM  
**To:** Maureen Tobin <[Maureen.Tobin@morganhill.ca.gov](mailto:Maureen.Tobin@morganhill.ca.gov)>  
**Subject:** Proposed Morgan Hill Gun ordinance

Maureen Tobin,

RE: posting on NextDoor regarding proposed MH gun ordinance(s)

I live outside the city limits of Morgan Hill, but have a MH address.

Chicago is one of the most restrictive cities in which to own a gun and they have rampant gun deaths.

Gun laws restrict law abiding citizens, not criminals intent on rape, burglaries, or murder.

If the city of Morgan Hill were really serious about reducing crime, they'd emulate the city of Kennesaw, Georgia:

From WikiPedia: Kennesaw is noted for its unique firearms legislation in response to Morton Grove, Illinois' law mandating gun prohibition.

In 1982 the city passed an ordinance [Sec 34-21]:[21]

(a) In order to provide for the emergency management of the city, and further in order to provide for and protect the safety, security and general welfare of the city and its inhabitants, every head of household residing in the city limits is required to maintain a firearm, together with ammunition therefore.

(b) Exempt from the effect of this section are those heads of households who suffer a physical or mental disability which would prohibit them from using such a firearm. Further exempt from the effect of this section are those heads of households who are paupers or who conscientiously oppose maintaining firearms as a result of beliefs or religious doctrine, or persons convicted of a felony.

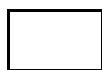
The results of this ordinance: a dramatic drop in crime!

FYI.....Mark Hinkle, 408-779-7922

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"It does not take a majority to prevail, but rather an irate, tireless minority, keen on setting brushfires of freedom in the minds of men." - Samuel Adams

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)



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## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 10:59 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Proposed gun ordinance language (9.04.010 A) would apply to common construction tools, toys and more

**From:** John Horner <[jthorner@verizon.net](mailto:jthorner@verizon.net)>  
**Sent:** Saturday, October 13, 2018 9:07 AM  
**To:** Maureen Tobin <[Maureen.Tobin@morganhill.ca.gov](mailto:Maureen.Tobin@morganhill.ca.gov)>  
**Cc:** Christina Turner <[Christina.Turner@morganhill.ca.gov](mailto:Christina.Turner@morganhill.ca.gov)>  
**Subject:** Proposed gun ordinance language (9.04.010 A) would apply to common construction tools, toys and more

Hello Maureen,

I'm just now getting to reading the text of the proposed ordinance and as such have missed the October 5, 2018 deadline. I am writing in my personal capacity and as a business owner.

This language seems overly broad:

“ No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.”

As written it would apply to the air powered nail guns commonly used in construction. There are probably thousands of these tools in Morgan Hill and probably hundreds of them in use on any given day. As a practical matter there is really no way the chief of police is going to be able to review and issue permits for them.

It would also apply to common toys such as “Nerf” guns, rubber band guns, water pistols and homemade spit ball shooters made with a straw and piece of paper. Popular and harmless children’s toys like Stomp Rockets (which use air pressure to launch of foam rubber toy rocket) would seem to be included as well. Industrial sand blasters, pressure washers and certain other machinery would also likely fall under the proposed definition. As such, the broad definition catches many types of devices and uses far beyond the common understanding of what a weapon is.

I sincerely hope the ordinance will not be enacted as drafted.

Thank you,  
 John Horner

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

## Michelle Bigelow

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:03 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Morgan Hill Gun Control Ordinance

**From:** Chuck Dunn <[dunnc@garlic.com](mailto:dunnc@garlic.com)>  
**Date:** October 12, 2018 at 10:46:07 AM PDT  
**To:** <[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)>  
**Subject:** **Morgan Hill Gun Control Ordinance**

My wife and I have been Morgan Hill residents over 25 years. As registered voter, who voted for you, we felt it appropriate to let you know that we are against the proposed gun control ordinance and ask that you vote against the measure.

We don't own any guns but have read the California Firearm Safety Certificate Study Guide and taken a hand gun safety class so we are knowledgeable about gun safety and the current California laws governing gun ownership and safety.

We don't believe that the Morgan Hill Gun Control Ordinance will have any measureable effect. It will not prevent bad people from doing bad things. The ordinance will add work / expense to the Council, Mayor and police chief and additional burden to the good citizens who choose to comply with the ordinance, all for no benefit.

Thank you for your time and assistance on this matter.

Charles and Mary Dunn  
 1740 Diana Ave,  
 Morgan Hill CA 95037



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Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:05 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Gun laws in Morgan Hill

**From:** Trudy Parks <[trudyp95037@gmail.com](mailto:trudyp95037@gmail.com)>  
**Date:** October 12, 2018 at 2:54:57 PM PDT  
**To:** [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)  
**Subject:** Gun laws in Morgan Hill

This is going too far. We already have many strict gun laws in place in California. The citizens of Morgan Hill should vote on this. The council should not make this decision.

Trudy Parks

Sent from my iPad

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**Michelle Bigelow**

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**From:** Michelle Bigelow  
**Sent:** Monday, October 15, 2018 11:05 AM  
**To:** Michelle Bigelow  
**Subject:** FW: Gun Control Ordinance

**From:** Creagh Downing <[creaghdowning58@gmail.com](mailto:creaghdowning58@gmail.com)>  
**Date:** October 12, 2018 at 12:35:55 PM PDT  
**To:** [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)  
**Subject:** Gun Control Ordinance

Dear council member Spring,

I oppose this gun control ordinance.

Thanks,

Charles Downing  
15395 La Arboleda Way, MH 95037  
347-349-0908

Attachment: Public Comment on Gun Violence Ordinance (1993 : Gun Violence Ordinance)

**From:** [Donald Larkin](#)  
**To:** [Michelle Bigelow](#)  
**Subject:** FW: Gun Control Ordinance  
**Date:** Friday, October 19, 2018 3:43:31 PM

Begin forwarded message:

**From:** Michael Burchfield <[mikeb@westhills.org](mailto:mikeb@westhills.org)>  
**Date:** October 19, 2018 at 12:23:56 AM PDT  
**To:** [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov), [rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov),  
[larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov), [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov),  
[caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov)  
**Subject:** Gun Control Ordinance

Dear Mayor Tate and City Council Members Mr. Constantine, Mr. Carr, Mr. Spring, and Mrs. Jachimowicz,

I am emailing you to communicate my concern regarding the gun control measure scheduled for discussion and vote by you, the city council, on October 24, 2018. I urge you NOT to approve this measure as it is written. Having read the ordinance (on line at <https://www.morgan-hill.ca.gov/DocumentCenter/View/23695/Draft-Firearms-Ordinance>), it is clear that it is so general in scope that even toys will be illegal within the city limits, unless an application is submitted to the chief of police for approval of said instrument; and I seriously doubt that you desire to be down as the city council who passed such a ridiculous ordinance.

Why do I call this a ridiculous ordinance? By way of example, the first section of the ordinance reads:

The **SECTION 1:** Chapter 9.04 (“Weapons”) of Title 9 (“Public Peace, Morals and Welfare”) is hereby amended to read as follows:

**“9.04.010 - Discharge—Permit required—Fee.**

A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police."

If I am interpreting this statement correctly, things such as nerf guns, nerf bow and arrows, slingshots or toy bow and arrows which shoot wooden arrows with rubber tips will be illegal to discharge within the Morgan Hill city limits without a permit from the police chief and a liability insurance policy. Put another way, if my grandson were to receive a TOY such as this mentioned above for his birthday, which utilizes compressed air or a strong under tension to propel a soft styrofoam or wooden projectile ‘any distance’, his doing so will constitute a violation of said ordinance, if done so without a permit.

Frankly, I cannot understand WHY an ordinance as broad as this is even up for consideration. Isn't it true that it is ALREADY illegal to discharge firearms within the city

limits? Aren't the setting off of explosive devices (called fireworks) already illegal within the city limits? Isn't it true that the use of air soft guns within the city limits is already illegal? Isn't it true that the discharge of paintball guns are illegal within the city limits unless used on designated fields of play?

If my assumptions regarding firearms, air soft guns and paintball guns are wrong, it seems this ordinance should specify that such instruments are what, specifically, are in view with in this ordinance. If my assumptions are correct, then why does Morgan Hill need this ordinance at all?

This seems like a 'feel good' ordinance which may gain certain members of the council favor in the eyes of some sub-group or other within the city, but which will do NO GOOD in protecting the citizenry of our good city any further than the ordinances already in place and enforced by the Morgan Hill Police Department. PLEASE, do NOT vote this ordinance into affect as written.

Thank you for your kind consideration; and thank you for your service to our community,

Michael Burchfield  
825 Encino Drive  
Morgan Hill, Ca, 95037

# PROPOSED FIREARMS ORDINANCE

## October 24, 2018

### Item 4



# Presentation Outline

- Background
  - Second Amendment
  - Local Police Power
  - Existing Firearms Regulations
- Proposed Ordinance
  - Duty to Report Loss or Theft
  - Safe Storage Requirements
  - Large Capacity Magazines
- Next Steps

# Second Amendment

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

# Second Amendment

There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms.

*District of Columbia v. Heller* (2008) 554 U.S. 570, 595

# Second Amendment

- “Of course the right [to keep and bear arms] was not unlimited, just as the First Amendment's right of free speech was not . . . Thus, we do not read the Second Amendment to protect the right of citizens to carry arms for *any sort* of confrontation, just as we do not read the First Amendment to protect the right of citizens to speak for *any purpose*.” *District of Columbia v. Heller* (2008) 554 U.S. 570, 595

- “. . . [n]othing in [the Supreme Court's] recent opinions is intended to cast doubt on the constitutionality of longstanding prohibitions traditionally understood to be outside the scope of the Second Amendment.” *Fyok v. City of Sunnyvale*, (2015) 779 F. 3d 991, 996

- “. . . longstanding prohibitions on the possession of “dangerous and unusual weapons” have uniformly been recognized as falling outside the scope of the Second Amendment.” *Id. at 997*

# Police Powers

A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Cal. Const., art. XI, § 7

# Existing “Weapons” Ordinance

- Adopted in 1970.
- Similar to restrictions in cities and states throughout the United States.
- 14 of 15 cities and towns in Santa Clara County have similar restrictions.
- Does not prohibit the use of children’s toys, nail guns, spit balls, paper airplanes, or other innocuous devices.

# Existing “Weapons” Ordinance

## 9.04.010 A

“No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls **bullets, missiles of any kind** to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police.”



# Existing “Weapons” Ordinance

Missile = thing thrown or projected as a weapon.

Weapon = thing designed or used to cause bodily harm or damage.

Note: Some items that are otherwise not prohibited, could be if misused (e.g., older model nail guns with safety devices removed).

# Proposed Deletion

Current section 9.04.020 is a repeat of outdated state requirements. We propose to delete these requirements in favor of revised state law.

However, we will bring back the proposed permitting ordinance on November 28.

# Duty to Report Theft or Loss

- Assists law enforcement in detecting straw purchasers.
- Prevents prohibited persons from later claiming theft of owned firearms.
- Protects gun owners from false identification in crime investigation.
- Responsible gun owners will report with or without an ordinance.

# Duty to Report Theft or Loss

- California requires reporting to local “law enforcement” within 5 days.
  - Ordinance would clarify that reporting should be to Morgan Hill Police Department.
  - Requires reporting within 48 hours.

# Duty to Report Theft or Loss

- 48 Hours is the time for reporting by firearms dealers.
- Commonly used in other local ordinances.
  - San Jose requirement is 24 hours.

# Safe Storage Requirement

- Helps to prevent theft of firearms.
- Helps to restrict access to firearms by people who should not have access.
  - Safe storage prevents youth and adult suicide.
  - Identified by Project ChildSafe as No. 1 way to help prevent firearms accidents.

# Safe Storage Requirement

- Current state law provides criminal penalties for unsafe storage, but only if:
  - A firearm is kept loaded and unsecured; and
  - The owner knows (or should know) that a child is “likely to gain access” without permission.



# Safe Storage Requirement

- Sunnyvale requires firearms to be secured unless they are being carried or are within arms-reach.
- San Jose requires firearms to be secured when owner is not at home.

# Safe Storage Requirement

- Our proposed ordinance requires firearms to be secured when unattended.
  - A firearm is unattended when it is not being “watched or looked after.”

# Safe Storage Requirement

## Policy Question

Should there be an exception for antique and/or replica antique firearms?

# Large Capacity Magazine Ban

- A “magazine” is a storage device for ammunition, that feeds cartridges into a firearm’s chamber. The cartridge typically contains an ignition device, a propellant, and a bullet.
- There is no standard definition for “large capacity” magazine, but California law defines magazines that hold more than 10 rounds of ammunition as large capacity.

# Large Capacity Magazine Ban

A review of mass shootings between January 2009 and January 2013 by Mayors Against Illegal Guns found that incidents where assault weapons or large capacity ammunition magazines were used resulted in 135% more people shot and 57% more killed, compared to other mass shootings.

# Large Capacity Magazine Ban

California law prohibits the manufacture, sale or importation of large capacity magazines, but does not restrict possession of magazines that were acquired prior to January 1, 2000.

# Large Capacity Magazine Ban

- A Local ban on the possession of large capacity magazines has been upheld by the 9<sup>th</sup> Circuit Court of Appeals.
- A lower court blocked a statewide ban (Proposition 63).
  - The lower court ruling was on preliminary injunction.
  - The lower court distinguished Sunnyvale from remote counties.



# Large Capacity Magazine Ban

## Policy Question

Should subsection 9.04.050(C)(8) of the draft ordinance be changed to exempt all large capacity magazines that were included with a firearm that was purchased prior to January 1, 2000, if the person possesses the large capacity magazine solely for use with that firearm?

# Next Steps/Additional Direction

## Next Step

- Consider adoption of permit requirements for licensed firearms dealers and/or retailers.

## Request for Direction

- Should the City explore options to provide firearms education?
- Should the City explore other specific actions suggested by members of the public?

# Questions?



**From:** Michael Burchfield <[mikeb@westhills.org](mailto:mikeb@westhills.org)>  
**Date:** October 19, 2018 at 9:49:26 PM PDT  
**To:** [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov), [rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov), [larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov),  
Rene Spring <[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)>, [caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov)  
**Subject:** Follow-up email Re: Gun Control Ordinance

Dear Mayor and Council Members,

Since sending you the email below, I had the privilege of speaking with Chief David Swing about the ordinance in question and learned from him that the paragraph from the ordinance that I quoted has been in affect for quite some time. Further, he explained how the primary amendments to the ordinance appear in section 9.04.020 and not in 9.04.010 and involve gun storage regulations and high capacity magazines. Having learned this, I apologize for sending you such a 'ridiculous' email - one which was clearly uninformed.

That said, I do think the original ordinance could be written better, and with more specificity in regards to exactly what instruments are in view and which are not. If the ordinance has served it's purpose well up until this point however, adding in more specificity is probably not necessary.

I greatly appreciate your efforts to keep Morgan Hill ne of the safest cities in Santa Clara. Thank you for your service to all of us

Regards,  
Michael Burchfield

On Oct 19, 2018, at 12:23 AM, Michael Burchfield <[mikeb@westhills.org](mailto:mikeb@westhills.org)> wrote:

Dear Mayor Tate and City Council Members Mr. Constantine, Mr. Carr, Mr. Spring, and Mrs. Jachimowicz,

I am emailing you to communicate my concern regarding the gun control measure scheduled for discussion and vote by you, the city council, on October 24, 2018. I urge you NOT to approve this measure as it is written. Having read the ordinance (on line at <https://www.morganhill.ca.gov/DocumentCenter/View/23695/Draft-Firearms-Ordinance>), it is clear that it is so general in scope that even toys will be illegal within the city limits, unless an application is submitted to the chief of police for approval of said instrument; and I seriously doubt that you desire to be down as the city council who passed such a ridiculous ordinance.

Why do I call this a ridiculous ordinance? By way of example, the first section of the ordinance reads:

The **SECTION 1:** Chapter 9.04 ("Weapons") of Title 9 ("Public Peace, Morals and Welfare") is hereby amended to read as follows:

**"9.04.010 - Discharge—Permit required—Fee.**

Attachment: 04 Supplement 1 (1993 : Gun Violence Ordinance)

A. No person shall discharge in the city, outside of a licensed shooting range, any instrument or device of any kind, character or description which discharges, propels or hurls bullets, missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, explosive force, mechanical spring action or electrical charge, without first having applied for and obtained a written permit therefore from the chief of police."

If I am interpreting this statement correctly, things such as nerf guns, nerf bow and arrows, slingshots or toy bow and arrows which shoot wooden arrows with rubber tips will be illegal to discharge within the Morgan Hill city limits without a permit from the police chief and a liability insurance policy. Put another way, if my grandson were to receive a TOY such as this mentioned above for his birthday, which utilizes compressed air or a strong under tension to propel a soft styrofoam or wooden projectile 'any distance', his doing so will constitute a violation of said ordinance, if done so without a permit.

Frankly, I cannot understand WHY an ordinance as broad as this is even up for consideration. Isn't it true that it is ALREADY illegal to discharge firearms within the city limits? Aren't the setting off of explosive devices (called fireworks) already illegal within the city limits? Isn't it true that the use of air soft guns within the city limits is already illegal? Isn't it true that the discharge of paintball guns are illegal within the city limits unless used on designated fields of play?

If my assumptions regarding firearms, air soft guns and paintball guns are wrong, it seems this ordinance should specify that such instruments are what, specifically, are in view with in this ordinance. If my assumptions are correct, then why does Morgan Hill need this ordinance at all?

This seems like a 'feel good' ordinance which may gain certain members of the council favor in the eyes of some sub-group or other within the city, but which will do NO GOOD in protecting the citizenry of our good city any further than the ordinances already in place and enforced by the Morgan Hill Police Department. PLEASE, do NOT vote this ordinance into affect as written.

Thank you for your kind consideration; and thank you for your service to our community,

Michael Burchfield  
825 Encino Drive  
Morgan Hill, Ca, 95037

**From:** Laura Palmerin <[lpalmerin@michellawyers.com](mailto:lpalmerin@michellawyers.com)>  
**Date:** October 19, 2018 at 3:22:06 PM PDT  
**To:** "[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)" <[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)>  
**Subject:** Proposed Ordinance Banning Firearm Magazine Possession [MA-Interwoven.FID27444]

Dear Council Member Spring,

Attached please find a letter regarding the City of Morgan Hill's proposed ordinance banning possession of certain firearm magazines.

Please feel free to contact our office with any questions or concerns.

Best regards,

**Laura Palmerin**  
Legal Secretary/Paralegal

Attachment: 04 Supplement 1 (1993 : Gun Violence Ordinance)

**SENIOR PARTNER**  
C. D. MICHEL\*

**MANAGING PARTNER**  
JOSHUA ROBERT DALE

**SPECIAL COUNSEL**  
W. LEE SMITH

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LOS ANGELES, CA

**WRITER'S DIRECT CONTACT:**  
562-216-4450  
TCHEUVRONT@MICHELLAWYERS.COM

October 19, 2018

**VIA FAX & U.S. MAIL**

Donald Larkin, City Attorney  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
Fax: 408-779-1592

**Re: Proposed Ordinance Banning Possession of Certain Firearm Magazines**

Dear Mr. Larkin:

On June 1, 2018 our office wrote to you on behalf of our clients California Rifle & Pistol Association, Incorporated ("CRPA") and their tens of thousands of members and supporters, many of whom live in the Morgan Hill area, to oppose the proposed ordinances that seeks to impose firearm related restrictions on residents of and visitors to the City of Morgan Hill ("City"). The City has held two public meetings regarding the proposed changes. Both supporters and opponents to the new regulations voiced their concerns at the meetings. We understand that the City now intends to place these ill-conceived ordinance changes on your October 24, 2018 agenda.<sup>1</sup>

Our clients continue to oppose the proposed ordinance.

**I. ANY ORDINANCE PROHIBITING POSSESSION OF SO-CALLED "LARGE CAPACITY MAGAZINES" IS PREEMPTED AND AMOUNTS TO AN UNCONSTITUTIONAL TAKING**

As noted in the City Council May 16, 2018 report, there are legal challenges currently underway and pending in the courts regarding the legality of banning the possession of magazines that can hold over 10 rounds. One such case, *Duncan v. Becerra*,<sup>2</sup> challenges state's ban against the possession of such magazines that was scheduled to take effect on July 1, 2017.<sup>3</sup> As stated by the court, "California's desire to criminalize simple possession of a firearm magazine able to hold more than 10 rounds is precisely the type of policy choice that the Constitution takes off the table." The Judge in

<sup>1</sup> The media reported that most of those in attendance at the community meetings were more interested in promoting education programs than they were in the City presenting more regulations against law-abiding gun owners. <https://www.morganhilltimes.com/2018/10/11/gun-control-ordinance-to-come-before-council/>

<sup>2</sup> *Duncan v. Becerra*, 265 F.Supp.3d 1106 (2017).

<sup>3</sup> See Cal. Penal Code § 32310(c-d); See also *Duncan v. Becerra*, S.D. Cal. 2017, 2017 WL 2813727.



City of Morgan Hill- Letter of Opposition  
 October 19, 2018  
 Page 2 of 2

*Duncan* spoke of the “complexity” of the state law and how the state has continued to add layers to the laws.<sup>4</sup> It is therefore wholly improper for the City to adopt such an ordinance while *Duncan* is pending.

Any such ordinance will also be preempted under state law because it will duplicate, contradict, and enter an area of law that is fully occupied by state law. In 2015, our office filed a lawsuit against the City of Los Angeles on this very issue, who at the time had in effect an identical ordinance now being considered by the City of Morgan Hill.<sup>5</sup> In 2017, Los Angeles agreed to repeal their ordinance as a result of that lawsuit pursuant to a settlement agreement.<sup>6</sup>

Banning the possession of these magazines would also constitute a physical appropriation of property without just compensation, which is *per se* an unconstitutional taking.<sup>7</sup> A regulation that goes so far as to depriving a property owner of economically beneficial use or otherwise “interfering with legitimate property interest” requires just compensation from the government.<sup>8</sup>

If our client is forced to seek a judicial declaration that the Ordinance, if adopted, is void and must be stricken from the Municipal Code, then our clients will be entitled to seek and recover their reasonable attorney’s fees and costs of the suit. (See Code Civ. Proc., § 1021.5, and see *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 220-221 [where writ relief confers a significant benefit on a large class of persons, an award of attorney’s fees is appropriate].) In light of the indisputable application of the preemption doctrine to the proposed Ordinance, however, hopefully the City can avoid the legal action faced by other similarly situated cities and the Council will vote no on the proposed Ordinance.

Sincerely,  
**Michel & Associates, P.C.**



Tiffany D. Cheuvront

Cc: Steve Tate, Mayor  
 Rich Constantine, Mayor Pro Tem  
 Larry Carr, Council Member  
 Rene Spring, Council Member  
 Caitlin Robinett Jachimowicz, Council Member

<sup>4</sup> *Id. Duncan v. Becerra*, Order Granting Preliminary Injunction (June 29, 2017).

<sup>5</sup> See *Bosenko v. City of Los Angeles*, Case No. BS158682, 2015 WL 6467648 (Cal. Super.).

<sup>6</sup> A copy of this settlement agreement can be viewed online at <http://michellawyers.com/wp-content/uploads/2017/07/Bosenko-Settlement-Agreement.pdf>.

<sup>7</sup> See *Horne v. Dep’t of Agric.*, -- U.S.--, 135 S. Ct. 2419, 2427 (2015).

<sup>8</sup> *Lingle v. Chevron*, 544 U.S. 528, 537-39 (2005).

**From:** Laura Palmerin <[lpalmerin@michellawyers.com](mailto:lpalmerin@michellawyers.com)>

**Date:** October 22, 2018 at 11:28:44 AM PDT

**To:** "[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)" <[rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov)>

**Subject:** Proposed Ordinance re Firearm Theft Reporting & Locked Storage [MA-Interwoven.FID27444]

Dear Council Member Spring,

Attached please find a letter regarding the City of Morgan Hill's proposed ordinance regarding reporting the theft or loss of a firearm and mandatory locked storage.

Please feel free to contact our office with any questions or concerns.

Best regards,

**Laura Palmerin**  
Legal Secretary/Paralegal

Attachment: 04 Supplement 1 (1993 : Gun Violence Ordinance)

**SENIOR PARTNER**  
C. D. MICHEL\*

**MANAGING PARTNER**  
JOSHUA ROBERT DALE

**SPECIAL COUNSEL**  
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LOS ANGELES, CA

**WRITER'S DIRECT CONTACT:**  
562-216-4450  
TCHEUVRONT@MICHELLAWYERS.COM

October 22, 2018

**VIA FAX & U.S. MAIL**

Donald Larkin, City Attorney  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
Fax: 408-779-1592

**Re: Pre-Litigation Demand  
Proposed Firearm Ordinance-Theft or Lost Firearm Reporting  
and Mandatory Locked Storage of Firearms- OPPOSED**

Dear Mr. Larkin:

On June 1, 2018 our office wrote to you on behalf of our clients California Rifle & Pistol Association, Incorporated ("CRPA") and their tens of thousands of supporters, many of which live in the Morgan Hill area, to oppose the proposed ordinances that seek to impose firearm related restrictions on residents and visitors to the City of Morgan Hill ("City").

Since then, the City has held two meetings regarding the proposed changes. Both supporters and opponents to the new regulations voiced their concerns at the meetings but the media reported that most of those in attendance at the community meetings were more interested in promoting education and firearm safety training programs than they were in the City presenting more regulations against law-abiding gun owners. <https://www.morganhilltimes.com/2018/10/11/gun-control-ordinance-to-come-before-council/> Nonetheless, the City has placed consideration of these ill-conceived proposed ordinances on its October 24, 2018 agenda.

Our clients continue to oppose the proposed ordinances, and urge you to advise your client concerning the illegality of these ordinances -- which are preempted by existing state laws.

**There is Already a State Law Requiring Theft or Loss of a Firearm to be Reported That Preempts Duplicative or Conflicting Local Ordinances**

A local regulation will be struck down if it duplicates state law, conflicts with state law, or enters a field wholly occupied by the state to the exclusion of local regulation, either expressly or by implication.<sup>1</sup> An explicit contradiction between an ordinance and a state statute occurs “where the language of the ordinance directly contradicts the operative language and statute, e.g., by penalizing conduct which the state law expressly authorizes...” (See *Small Property Owners of S.F. Instit. v. City and County of San Francisco* (2018) 22 Cal.App.5th 77, 86 (*Small Property Owners*), quoting *Bravo Vending v. City of Rancho Mirage* (1993) 16 Cal.App.4th 383, 396-397.)

Proposition 63<sup>2</sup> created a state statute that subjects gun owners to penalties if a lost or stolen firearm is not reported to authorities within 5 days of the time he or she knew or reasonably should have known that the firearm was lost or stolen.<sup>3</sup>

The proposed ordinance mandating the reporting of the theft or loss of a firearm within 48 hours both duplicates and conflicts with the existing state law. The proposed ordinance conflicts with the existing state law and the 5-day reporting requirement. (See, e.g., *O’Connell v. City of Stockton* (2007) 41 Cal.App.4th 895, 1068.) Under the City’s proposed ordinance, after 48 hours the victim who has not yet reported the theft would still be in compliance with state law but would be in violation of the proposed ordinance. The proposed Ordinance contains the sort of localized penalization of conduct otherwise authorized under state law that the preemption doctrine forbids. (See *Small Property Owners, supra*, 22 Cal.App.5th at p. 86.) “The consequences of the preemption of a local measure is that the measure is unenforceable against anyone.” (*City and County of San Francisco v. Regents of University of Cal.* (2017) 11 Cal.App.5th 1107, 1118.)

### **Mandating Locked Storage of Firearms in One’s Home Raises Second and Fourth Amendment Concerns and is Preempted**

Dictating the manner in which residents keep their firearms while in their own home and requiring that they keep handguns in a locked storage container or disabled with a trigger lock, runs afoul of the preemption doctrine because it contradicts state law and enters into an area that is fully occupied by state law.<sup>4</sup>

California state laws create liability for the criminal storage of a firearm for any gun owner who allows a minor or prohibited person to access and misuse a firearm.<sup>5</sup> The statute contains a comprehensive set of exceptions.<sup>6</sup> There are also several firearm storage requirements when one lives

<sup>1</sup> *Fisacal v. City of San Francisco* (2008) 158 Cal. App. 4th 895, 903-04.

<sup>2</sup> Cal. Penal Code § 25250.

<sup>3</sup> *Id.*

<sup>4</sup> *Fiscal v. City and County of San Francisco*, 158 Cal.App.4th 895, 903-04 (2008).

<sup>5</sup> Cal. Penal Code §§ 25100-25135, 25200-25225.

<sup>6</sup> Cal. Penal Code §§ 25105(a)-(g), 25135(a)(1)-(6), 25205.

with another individual who is prohibited by state or federal law from owning firearms.<sup>7</sup> California law also mandates that any firearm sold must include a firearm safety device.<sup>8</sup> Additionally, whenever an individual purchases a long gun in California they must sign an affidavit stating ownership of a gun safe or lock box.<sup>9</sup> Such safety devices must meet rigorous safety standards.

The state's firearm storage regulatory scheme is comprehensive. Local ordinances imposing further criminal restrictions on the storage of firearms are preempted.

Additionally, the City will generally not be able to enforce the proposed locked storage requirements because the Fourth Amendment prohibits an inspection unless probable cause is established.<sup>10</sup>

The ordinance also infringes on Second Amendment rights. The “inherent right of self-defense has been central to the Second Amendment right[,]” and “the need for self-defense, family, and property is most acute” in the home.<sup>11</sup> At issue in *Heller* was a District of Columbia ordinance substantially similar to the proposed ordinance. The Supreme Court held that “any ban on handgun possession in the home violates the Second Amendment, as does [a] prohibition against rendering any lawful firearm in the home operable for the purposes of immediate self-defense.”<sup>12</sup> The proposed recommendation is completely at odds with the ruling in *Heller*.

The Ninth Circuit case of *Jackson v. City of San Francisco* is not dispositive of this issue and did not address preemption at all. In *Jackson*, the Ninth Circuit only heard an appeal from the denial of a motion for preliminary injunction, not a final decision on the merits of the case. A request for review by the Supreme Court was denied, but Justice Thomas wrote a scathing opinion noting that “The Court should have granted a writ of certiorari to review this questionable decision and to reiterate that courts may not engage in this sort of judicial assessment as to the severity of a burden imposed on core Second Amendment rights.”<sup>13</sup> Because of the *Heller* decision and the fact that *Jackson* was never decided on the merits, it is likely that the newly comprised Supreme Court would find the proposed ordinance unconstitutional.

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<sup>7</sup> *Id.* at § 25135.

<sup>8</sup> Cal. Penal Code § 23650(a).

<sup>9</sup> See State of California, Bureau of Firearms Form 978 (Re. 01/2013), available at [https://oag.ca.gov/all/files/agweb/pdf/firearms/forms/bof\\_978.pdf](https://oag.ca.gov/all/files/agweb/pdf/firearms/forms/bof_978.pdf)

<sup>10</sup> U.S. Const. amend IV.

<sup>11</sup> *District of Columbia v. Heller*, 554 U.S. 570, 628 (2008).

<sup>12</sup> *Id.* at 635.

<sup>13</sup> See *Heller*, 554 U.S., at 634; *Id.* at 635 (explaining that the Second Amendment “elevates above all other interest the right of the law-abiding, responsible citizens to use arms in defense of hearth and home.”).

City of Morgan Hill- Letter of Opposition-Theft Reporting and Locked Storage  
October 22, 2018  
Page 4 of 4

We welcome any question you may have, and hope that a legal challenge to these ordinances will not be necessary.

Sincerely,  
**Michel & Associates, P.C.**



Tiffany D. Cheuvront

cc: Hon. Steve Tate, Mayor  
Hon. Rich Constantine, Mayor Pro Tem  
Hon. Larry Carr, Council Member  
Hon. Rene Spring, Council Member  
Hon. Caitlin Robinett Jachimowicz, Council Member

Attachment: 04 Supplement 1 (1993 : Gun Violence Ordinance)

**From:** "Jaime Tompkins" <[jaime@tigglesworth.com](mailto:jaime@tigglesworth.com)>

**Date:** October 20, 2018 at 11:43:03 AM PDT

**To:** [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov), [rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov), [larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov), [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov), [caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov)

**Subject:** Re Firearms Ordinance

Good morning,

I wanted to write in support of the proposed Firearms Ordinance that is to be discussed in the upcoming meeting. I am glad that the CC is tackling this issue and appreciate the proposal.

I do think some clarification needs to be made as some Morgan Hill residents have taken to gas lighting and there are false narratives prominently presented on various social media platforms and discussions that this ordinance applies to nerf guns and such. Common sense gun reform is absolutely necessary and my school aged kids and I support the CC's willingness to start a conversation around this issue.

Thank you,  
Jaime Tompkins

Attachment: 04 Supplement 1 (1993 : Gun Violence Ordinance)



**From:** [Donald Larkin](#)  
**To:** [CityCouncil](#)  
**Cc:** [Christina Turner](#); [Michelle Bigelow](#); [Angie Gonzalez](#)  
**Subject:** City Attorney Supplement for Item 4  
**Date:** Wednesday, October 24, 2018 3:24:17 PM

---

Dear Mayor and Council Members,

In response to a concern raised today by a member of the public, I will be recommending a slight modification to section 9.04.040 should the Council choose to move forward with the ordinance tonight. The recommended addition is highlighted below:

*No person shall leave a firearm (as defined in [Penal Code](#) Section 16520 or as amended) unattended in any residence owned or controlled by that person unless the firearm is stored in a locked container (as defined in [Penal Code](#) Section 16850 or as amended), or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.*

**Donald A. Larkin**  
City Attorney  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

Tel: (408) 778-3490  
Email: [donald.larkin@morganhill.ca.gov](mailto:donald.larkin@morganhill.ca.gov)

This e-mail may contain confidential and/or attorney-client privileged material. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

Attachment: 04 Supplement 2 (1993 : Gun Violence Ordinance)

**From:** [Michelle Bigelow](#)  
**To:** [Michelle Bigelow](#)  
**Subject:** FW: Consideration of an Item on your Agenda this evening  
**Date:** Wednesday, October 24, 2018 4:57:46 PM

---

**From:** Michael Parker <[sirmichaeldavidparker@gmail.com](mailto:sirmichaeldavidparker@gmail.com)>  
**Date:** October 24, 2018 at 2:02:10 PM PDT  
**To:** [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov), [rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov),  
[larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov), [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov),  
[caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov)  
**Subject: Consideration of an Item on your Agenda this evening**

In your Public Hearing section (item #4) you have: "Adopt an ordinance requiring safe storage of firearms, reporting theft or loss of firearms, and prohibiting possession of large capacity magazines"

I'd like you to consider the Supreme Court of the United States case: District of Columbia vs Heller. Part of your ordinance has been decided by Heller already in regards to your Chapter 9.04.

Also, the Ninth Circuit Court of Appeals currently has upheld a lower court decision to suspend enforcement of California's restriction on the possession of magazines that hold 10 rounds or less.

I would encourage the City Council to research issues on gun safety and regulation, along with any other Constitutional rights that the people you represent enjoy. Believe it or not, the National Rifle Association has a ton of educational material on this topic. It's main goal is education and safety. (ref. following webpage)  
<https://www.nrafoundation.org/about-us/>

Sincerely, Michael Parker

Attachment: 04 Supplement 3 (1993 : Gun Violence Ordinance)

**Item # 04**

**AGENDA DATE: 10/24/18**  
**SUPPLEMENT # 4**

**From:** Dieskau Reed <[dieskau3@gmail.com](mailto:dieskau3@gmail.com)>

**Date:** October 24, 2018 at 9:47:24 PM PDT

**To:** [steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov), [rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov),  
[caitlin.jachimowicz@morganhill.ca.gov](mailto:caitlin.jachimowicz@morganhill.ca.gov), [rene.spring@morganhill.ca.gov](mailto:rene.spring@morganhill.ca.gov), [larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov)

**Subject:** Morgan Hill City Council Proposed Firearm Ordinance

Good Evening,

I am Dieskau Reed, Morgan Hill resident for 6.5 years.

Thank you for allowing public comments on the proposed City Firearms Ordinance.

I stand before you tonight on behalf All the Legal Gun Owners & Enthusiasts within our community and country, in support of my legal & constitutional Gun ownership rights!

It is my understanding that part of the reasoning behind this revamped proposed ordinance is in response to the awful & devastating mass shootings that occurred in schools across America earlier this year.

While I am sympathetic to those terrible events, I do not feel that this ordinance addresses those issues specifically.

I'm not opposed to legal enforcement of existing laws on the books. I fully understand the need for safe & responsible ownership of firearms! I grew up in a home where my father was a career police officer for over 40 years in NYC. I was made to respect firearms and understand need for safety at all times. This was further ingrained in me during my time in the US Navy. Because of this background, I promote respect for firearms, responsible use, understanding of inherent dangers, and legal ownership in my own home now.

I am however opposed to the adoption of the proposed ordinance & further infringement upon citizen's constitutional firearms rights. Specifically it seems as you intend to duplicate laws already on the books, where the state has already spoken.

Some of the proposed ordinance actually lessen my legal firearm rights. In particular the reporting of a stolen/lost firearm. State laws provide for up to 5 days, the new law would limit compliance to 2 days.

Many firearms manufacturers typically sell their product with magazines that typically hold 15, 16, & 17 as standard magazines that ship with purchase.

Also, does the City have the legal authority or right to mandate that I purchase a \$1,000,000 liability insurance to protect my legal rights? I've looked into the additional insurance from our insurance company AAA. They Will Not authorize the City as an additional named insured.

Other points regarding the storage and constant lock down of my firearm put the lives of law abiding citizens in further harms way by limiting my access to my defense ready firearm in my own home. Given the amount of robberies, thefts, Break-Ins & even home invasions in our community, limiting my ability to readily defend my home, family & life is unacceptable. The intruders will not allow me the time to say

Attachment: 04 Supplement 4 (1993 : Gun Violence Ordinance)

“Hold on, let me go to my safe, load my firearm, then remove the trigger lock before you rob me or do bodily harm or worse to me, my wife, my daughter, other family members or guests” ...just doesn’t work like that!!

It is highly likely that should you choose to pass this ordinance, the City Of Morgan Hill will end up defending lawsuits similar to what has occurred in Los Angeles and other cities that have attempted similar ordinances which are now being litigated in the Ninth Circuit Court on the way to the US Supreme Court. Our City revenue has more productive ways to be spent than in needless court fees.

We would be better served to legally enforce existing laws, provide more education to the public & in particular the youth within our community regarding proper & safe use of firearms and the hold criminals accountable!

The enforcement of the proposed ordinance serves to further inconvenience & tread upon & limit our constitutional firearm rights of legal & law abiding responsible gun owners. It does nothing to educate, promote any further public safety or Reduce activity of Real Criminals!

If The Definition Of a Criminal Is Someone Who Breaks The Law.....  
How Does Making More Laws, Make Us Safer With Less Criminals?  
Particularly In Reference To Gun Violence & Street Crimes

I strongly urge you not to adopt this revised ordinance.

Thank you for your time!

Dieskau E Reed III

# **EXHIBIT G**



**Meeting Minutes  
City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, October 24, 2018 5:30 pm**

**Council Chamber**  
**17555 Peak Avenue, Morgan Hill, CA 95037**

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**SPECIAL/REGULAR MEETING**

*A special meeting of the City Council was called at 5:30 p.m. for the purpose of conducting a Joint City Council/Planning Commission Workshop.*

**SPECIAL MEETING**

**5:30 P.M.**

**CALL TO ORDER**

Mayor Tate called the meeting to order at 5:31 p.m.

**ROLL CALL ATTENDANCE**

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Rich Constantine	Mayor Pro Tem	Present	
Larry Carr	Council Member	Present	
Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

The following Planning Commissioners were present:

Liam Downey  
Yvonne Martinez-Beltran  
John McKay  
Juan Miguel Muñoz-Morris

The following Planning Commissioners were absent:

Joe Mueller  
Wayne Tanda  
Mohammad Habib

## **DECLARATION OF POSTING AGENDA**

Deputy City Clerk Bigelow declared the posting of the agenda.

## **WORKSHOP**

### **MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN JOINT CITY COUNCIL/PLANNING COMMISSION WORKSHOP**

Recommendation:

1. Continue presentation on the Monterey Corridor Block-Level Master Plan;
2. Discuss and provide feedback on draft frontage standards for future development along the Monterey Corridor; and
3. Discuss and provide feedback on the results and recommendations of the block-level commercial analysis.

Interim Principal Planner John Baty, Development Services Director Jennifer Carman, and Economic Development Director Edith Ramirez, along with Christine Firstenberg with Metrovation provided the presentation.

The public comment was opened at 6:39 p.m.

Brian Sullivan was called to speak.

There being no further requests to speak, the public comment was closed.

The special meeting adjourned at 6:52 p.m.

## **REGULAR MEETING**

**7:00 P.M.**

**The regular meeting was called to order at 7:00 p.m.**

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Jachimowicz shared that last week Assembly Member Anna Caballero mentioned funding identified in the state budget for homelessness, specifically for continuum of care. She shared that City Housing staff has a plan to look after some of this funding. One program that may benefit from these funds would be the Safe Parking program which could potentially be expanded. We have a meeting



scheduled for November 5<sup>th</sup> with the Gilroy team to discuss this specific funding and other housing topics to formalize a request for South County to obtain some of these dollars. She mentioned that while the City Council is not a political body, they sometimes will make recommendations of local interest. Along those lines she shared that she is appointed to the Association of Bay Area Governments (ABAG) and the League of California Cities (LOCC), both organizations along with the City Council have taken a firm stance against Proposition 6. That has been the focus of both bodies as we look towards the next election. For those who do not know, Proposition 6 will take away about \$200 million per year of tax revenue that would be used for road repairs. The City of Morgan Hill would lose between \$600,000 and \$700,000 annually if Proposition 6 were to pass.

She shared that ABAG is looking for nominations for their Bay Area Metro Awards. The nomination process is open to anyone, so if you know of a person, project, or city who is making a difference in the areas of housing, transportation, community and social equity, economic development, or environmental protection, nominations can be made at [www.abag.ca.gov](http://www.abag.ca.gov). She reported that under ABAG, the Metropolitan Transportation Commission is recruiting for a new Executive Director. She concluded by reminding everyone that the election is 13 days away and encouraged everyone to vote.

### **CITY MANAGER'S REPORT**

City Manager Christina Turner spoke to the evening's supplements and presentations. She recognized our public safety, both Police and Fire teammates. Everyday these men and women serve to protect our community, positively impacting the lives of our residents and visitors. She is continually impressed by their dedication and professionalism. She highlighted a couple of examples of their outstanding service. She announced that Fire Chief Derek Witmer is retiring and that the new Fire Chief, Jake Hess, will be starting on October 31<sup>st</sup>. She shared that the broker's breakfast that took place last week was a huge success. She mentioned that the Tourism Business Improvement District is moving along, and the team will be meeting with the hotels next week on October 30<sup>th</sup>. The team will return to the Council on November 7<sup>th</sup> with a draft management plan. She concluded by announcing that the certification of election and seating of the new mayor and council will take place on Wednesday, December 12<sup>th</sup> at 7:00 p.m.

### **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin shared that the 6th District Court of Appeal issued their opinion and upheld the voter initiative for Measure B, which is the funding for Valley Transportation Authority (VTA) projects including our own Hale Avenue Extension Project. It will however, be some time before the funds are released because there is a period of time in which the plaintiffs have to petition the Supreme Court; it would then get remanded back to the Superior Court to enter a final judgment. There is now hope that sometime in the relatively near future, those funds will be released, and we will get the funding for the Hale Avenue Extension Project.

### **OTHER REPORTS**

Council Member Rene Spring shared Morgan Hill was recently in the news a couple times. He mentioned that a few weeks back he asked the City Council and staff to bring an item back to Council with alternatives to using rat poison in Morgan Hill. This week in the news, a resident had a beautiful owl die on her front porch from consuming rat poison. This incident demonstrates that the issue of rat poison is a very real and impactful issue in our community and that we need to move forward as soon as possible to get the poison out of the community.

He commented that next week is Halloween and he encouraged the residents to get out and enjoy the community. He concluded by announcing that last week he became a commissioner for the Veterans Commission of Santa Clara County, with the passionate intention to bring a voice for our veterans to Santa Clara County.

Mayor Tate announced that the next coffee with the Mayor will be on Saturday, November 10th at

Booksmart from 10:00 a.m. to 11:30 a.m. His guest will be the new mayor.

## **PROCLAMATION**

Proclaiming November 2018 as Morgan Hill Community Philanthropy Month  
*Peggy Martin*

## **PRESENTATION**

Morgan Hill Downtown Association Board Presentation of Contribution Check  
for the Downtown Twinkle Lights

## **PUBLIC COMMENT**

The public comment was opened at 7:16 p.m.

There being no requests to speak, the public comment was closed.

## **ADOPTION OF AGENDA**

### **MOTION:**

Adopting the agenda as posted.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **CONSENT CALENDAR**

### **MOTION:**

Approving consent calendar items 1 through 3.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

1. **ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT DA2017-0008: LLAGAS-STROLATA (SILVA) FOR A 3-UNIT RESIDENTIAL DEVELOPMENT WITH REMAINDER LOT ON A 4.48-ACRE SITE LOCATED AT 1110 LLAGAS AVENUE (APN 773-32-013)**

Recommendation:

Waive the reading, adopt Ordinance No. 2286, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

2. **ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR A 389 UNIT APARTMENT PROJECT ON APPROXIMATELY 19.5 ACRES AT JARVIS DR. AND MONTEREY ROAD**

Recommendation:

Waive the reading, adopt Ordinance No. 2287, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

3. **ADOPT ORDINANCE ADDING NEW CHAPTER 14.08 “IN-LIEU HOUSING FEE” TO TITLE 14 (HOUSING) OF THE MORGAN HILL MUNICIPAL CODE, ESTABLISHING IN-LIEU FEES FOR NEW RESIDENTIAL DEVELOPMENT OWNERSHIP AND RENTAL PROJECTS WITHIN THE CITY AND ADDING CHAPTER 14.12 “BELOW MARKET RATE PROGRAM” WHICH INCORPORATES A NEW BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A NEW BELOW MARKET RATE OWNERSHIP PROGRAM APPLICATION GUIDE, AND REPEALING CHAPTERS 15.22 “AFFORDABLE HOUSING FEE” AND 15.23 “BELOW MARKET RATE PROGRAM”**

Recommendation:

Waive the reading, adopt Ordinance No. 2288, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **PUBLIC HEARING**

4. **ADOPT AN ORDINANCE REQUIRING SAFE STORAGE OF FIREARMS, REPORTING THEFT OR LOSS OF FIREARMS, AND PROHIBITING POSSESSION OF LARGE CAPACITY MAGAZINES**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance amending Chapter 9.04 titled “Weapons,” to require the safe storage of firearms when not attended, to require the reporting of the theft or loss of firearms, and to prohibit the possession of large capacity magazines.

City Attorney Donald Larkin presented the report.

The meeting went into recess at 8:17 p.m.

The meeting was reconvened at 8:23 p.m.

The public hearing was opened at 9:09 p.m. The following people were called to speak:

Kirk Borovick  
Amanda Santiago  
Kirk Bertolet  
Mr. Reed  
Marby Lee  
Paul Barton  
Trevor Bacolini  
Andy Francke  
Kyle McElroy  
Mark van Kuelen  
Robert Alexander  
Gary Inman  
Brad Weightman  
Anne Rosenweig  
Steve Chappell  
Mark Hinkle  
Sean Adams

There being no further requests to speak, the public hearing was closed.

The meeting went into recess at 9:55 p.m.  
The meeting was reconvened at 10:08 p.m.

**MOTION:**

Extending the meeting to 12:00 a.m.

<b>RESULT:</b>	<b>EXTENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Caitlin Jachimowicz, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

**MOTION:**

Waiving the first and second reading of the ordinance

<b>RESULT:</b>	<b>WAIVED [4 TO 1]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz
<b>NAYS:</b>	Spring

**MOTION:**

Introducing the ordinance amending the section on magazine bans to include the suggested amended language provided in the presentation and including the definition of a locked container.

<b>RESULT:</b>	<b>INTRODUCED [4 TO 1]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Steve Tate, Mayor
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz
<b>NAYS:</b>	Spring

**5. ZA2018-0005: CITY OF MORGAN HILL - AN AMENDMENT TO TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE**

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance; and
3. Introduce Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance.

City Manager Christina Turner introduced the item. Interim Principal Planner John Baty and Development services Director Jennifer Carman presented the report.

The public hearing was opened at 11:26 p.m.  
Trevor Bacolini was called to speak.  
There being no further requests to speak, the public hearing was closed.

**MOTION:**

Waiving the first and second reading of the ordinance.

<b>RESULT:</b>	<b>WAIVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

**MOTION:**

Introducing the ordinance including the cleanup language regarding building coverage.

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

Council Member Spring requested that staff explore options for fire arms education for the community.

## **CLOSED SESSION**

Mayor Tate announced the closed session.

## **OPPORTUNITY FOR PUBLIC COMMENT**

The public comment was opened at 11:31 p.m.

There being no requests to speak, the public comment was closed.

## **ADJOURN TO CLOSED SESSION**

The meeting adjourned to closed session at 11:31 p.m.

## **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Authority: Government Code 54957(b)(1)

Title: City Manager

## **CLOSED SESSION SUPPLEMENT 1**

## **CLOSED SESSION SUPPLEMENT 2**

## **RECONVENE**

The meeting reconvened at 11:54 p.m.

## **CLOSED SESSION ANNOUNCEMENT**

Mayor Tate announced that there was no reportable action.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:55 p.m.

**MINUTES PREPARED BY:**

Michelle Bigelow, Deputy City Clerk

# **EXHIBIT H**





**Special - Regular Meeting Agenda  
City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, May 16, 2018 6:30 pm**

**Council Chamber  
17555 Peak Avenue, Morgan Hill, CA 95037**

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**AMENDED AGENDA**

Please note that this agenda has been amended.

A third closed session item has been added.

Item 14, *Potential next steps on cannabis regulations and taxation, increase to transient occupancy tax, and establishment of Tourism Business Improvement District*, has been moved to the end of the agenda and is now item 16.

**SPECIAL/REGULAR MEETING**

**(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)**

***A special meeting of the City Council is called at 6:30 p.m. for the purpose of conducting a closed session.***

**Closed sessions are not open to the public. Students should attend the 7:00 pm Regular City Council meeting.**

**SPECIAL MEETING**

**6:30 P.M.**

## **CALL TO ORDER**

*(Mayor Tate)*

## **ROLL CALL ATTENDANCE**

## **DECLARATION OF POSTING AGENDA**

Per Government Code Section 54954.2  
*(Deputy City Clerk Bigelow)*

## **CLOSED SESSION**

## **CLOSED SESSION ANNOUNCEMENT**

## **OPPORTUNITY FOR PUBLIC COMMENT**

## **ADJOURN TO CLOSED SESSION**

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: Morgan Hill Hotel Coalition, et al. v. City of Morgan Hill  
Case Number: California Supreme Court Case No. S243042

### **CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Authority: Pursuant to Government Code section 54956.9(b)  
Number of Cases: 1  
Potential Plaintiff: Morgan Hill Hotel Coalition

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: United States of America v. State of California  
Case Number: U.S. District Court, Easter Dist., California No. 18-264

## **RECONVENE**

## **REGULAR MEETING**

**7:00 P.M.**

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

May 16, 2018

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Carr

## **CITY MANAGER'S REPORT**

## **CITY ATTORNEY'S REPORT**

## **OTHER REPORTS**

## **PROCLAMATIONS**

Proclaiming May 15, 2018 as National Peace Officers Memorial Day and the week of  
May 13-19, 2018 as National Police Week

Proclaiming the week of May 20-26, 2018 as Public Works Week

Proclaiming the Month of May as Older Americans Month

Proclaiming the Month of May as Foster Care/Resource Parent Awareness Month

## **RECOGNITIONS**

Recognizing Gladys Aichele for 20+ years of volunteering with the Senior Center

Recognizing the Library Culture and Arts Commission for the Art a la Carte Program

Recognizing Merrill Lynch Morgan Hill for Community Services

## **MERRILL LYNCH RECOGNITION PRESENTATION**

## **PRESENTATIONS**

YAC PRESENTATION - ASSET #18 YOUTH PROGRAMS

## **PUBLIC COMMENT**

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

## **HANDOUT FROM PUBLIC**

## **ADOPTION OF AGENDA**

## **CONSENT CALENDAR**

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

### **1. RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER**

Recommendation:

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

### **2. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION**

Recommendation:

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

### **3. APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY**

Recommendation:

Review and Approve the City Council and Planning Commission Email Policy.

### **4. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018**

Recommendation:

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

### **5. REBUILDING TOGETHER REHAB PROGRAM AGREEMENT**

Recommendation:

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

**6. ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND**

Recommendation:

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

**7. AIRBNB VOLUNTARY COLLECTION AGREEMENT**

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

**8. AMEND REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HIGH SPEED RAIL AUTHORITY TO EXTEND THE TIME DURATION OF THE CURRENT AGREEMENT**

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

**9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.**

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

**10. AMEND AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.**

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

**11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION**

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

## **12. APPROVE THE MAY 2, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

## **OTHER BUSINESS**

### **13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE**

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

Estimated Time: 15 Minutes

## **PUBLIC HEARING**

### **14. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1**

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Estimated Time: 10 Minutes

### **15. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)**

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Estimated Time: 60 Minutes

## **OTHER BUSINESS**

**16. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT**

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

Estimated Time: 75 Minutes

**FUTURE COUNCIL INITIATED AGENDA ITEMS**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**

## NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

## PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov).

## AMERICANS WITH DISABILITIES ACT (ADA)

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov). Requests must be made as early as possible and at least two-full business days before the start of the meeting.*





## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: May 16, 2018**

PREPARED BY: Donald Larkin, City Attorney  
APPROVED BY: City Manager

## **PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE**

### **RECOMMENDATION(S)**

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

#### **Ongoing Priorities**

Enhancing Public Safety  
Supporting Our Youth  
Seniors  
and Entire Community  
Preserving and Cultivating Public Trust

#### **2018 Strategic Priorities**

Community Engagement and Messaging

### **POLICY CONSIDERATIONS:**

1. Should Morgan Hill residents be required to report the theft or loss of a firearm to the Morgan Hill Police Department?
2. Should the City adopt an ordinance requiring the safe storage of firearms when they are not in use?
3. Should the City prohibit the possession of large capacity magazines?
4. Should the City require a permit to conduct retail firearm and/or ammunition sales, and if so, what conditions should be required on the permit.

### **REPORT NARRATIVE:**

This is the second in what will likely be a series of reports discussing proposals to prevent gun violence in Morgan Hill. At its March 7, 2018 meeting, the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Now, staff is seeking direction on several potential measures in furtherance of the Council's goals.

In 2013, the City of Sunnyvale adopted a gun safety/violence prevention ordinance that included specific requirements, including requirements to report the theft or loss of a firearm, and to keep firearms locked when not in use. The Sunnyvale ordinance also

prohibited the possession of large capacity magazines and required documentation of all ammunition sales. The Sunnyvale ordinance has been upheld by the 9<sup>th</sup> Circuit Court of Appeal in the case of *Fyock v. Sunnyvale* ((9th Cir. 2015) 779 F.3d 991.) In light of the fact that Sunnyvale's ordinance has been in effect for nearly five years and has survived legal challenge, we are recommending the adoption of a similar ordinance (or ordinances) in Morgan Hill. Sunnyvale's firearms regulations can be found [here](#).

#### Duty to Report the Theft or Loss of a Firearm:

According to the Giffords Law Center, "laws that require firearm owners to notify law enforcement about the loss or theft of a firearm serve several public safety functions. These laws help deter gun trafficking and straw purchasing and help law enforcement recover and return lost or stolen guns to their rightful owners. They also help law enforcement disarm individuals who become ineligible to possess firearms."

The complete report from the Giffords Law Center is linked [here](#).

Staff recommends adoption of an ordinance that requires reporting within 48 hours of the time a person discovers that his or her firearm has been lost or stolen when the person is a resident of Morgan Hill and/or the theft or loss occurred in Morgan Hill.

#### Requiring the Safe Storage of Firearms When Not in Use:

According to statistics compiled by the Children's Hospital of Philadelphia's Center for Injury Research and Prevention, more than 1.7 million children live with unlocked, loaded firearms in their home. According to that report, in 2014, 2,549 children (under 20) died by gunshot and another 13,576 were injured. The same fact sheet states that 31 percent of accidental deaths caused by firearms might be prevented with the addition of a child-proof safety lock and a loading indicator. A link to Center for Injury Research and Prevention's fact-sheet can be found [here](#).

Staff is recommending the adoption of an ordinance requiring guns stored in residences in Morgan Hill to be in a locked container and/or disabled with a trigger lock to prevent easy access and accidental discharges by children.

#### Prohibiting the Possession of Large-Capacity Magazines:

Under California law it is illegal to buy, manufacture, import, sell, give, or lend a large-capacity magazine (able to accept more than 10 rounds of ammunition). However, if a person already owns a large-capacity magazine, its possession is not currently illegal under California law. A law that would prohibit possession of large-capacity magazines statewide is currently on hold pending court review. In the meantime, in upholding the Sunnyvale ordinance, the 9<sup>th</sup> Circuit Court of Appeals has held that cities have the right to regulate the possession of large capacity magazines.

According to the Giffords Law Center, "large capacity magazines, some of which can hold up to 100 rounds of ammunition, significantly increase a shooter's ability to injure

and kill large numbers of people quickly because they enable the individual to fire repeatedly without needing to reload. The time required to reload can be critical in enabling victims to escape and law enforcement or others to intervene.” The complete report from the Giffords Law Center is linked [here](#).

Because the statewide prohibition on large-capacity magazines has not yet taken effect, and courts have upheld the right of cities to regulate the possession of large-capacity magazines, staff recommends adoption of an ordinance prohibiting the possession of large-capacity magazines.

#### Requiring a Permit to Conduct Retail Firearms Sales:

The City does not currently regulate retail firearms sales. While several firearms retailers have City business licenses for firearms sales, which are required under California law, the City has no specific regulations for firearms retailers. To better track firearms and ammunition sales, prevent straw purchases, and limit sales to minors, we recommend adopting an ordinance requiring a separate City permit for the operation of retail firearms sales. As a condition of that permit, retailers would be required to:

1. Certify that staff members who engage in retail sales are trained to recognize and prevent straw purchases,
2. Maintain an ammunition sales log, which records all ammunition sales made by the retailer, and
3. Prohibit the sale of assault-style firearms to minors under the age of 21.

#### Next Steps:

If Council directs the City Attorney to prepare an ordinance or ordinances as recommended, the City Attorney will return with a proposed ordinance in June 2018. Staff will also be reporting back at a future meeting on proposals to restrict firearms on City property, a description of how firearms are sold in Morgan Hill, and potential zoning code amendments to regulate the locations where firearms may be sold.

#### **COMMUNITY ENGAGEMENT: Inform.**

The City Attorney gave a presentation of potential measures to prevent gun violence at the March 7, 2018 regular meeting of the City Council. This report serves to further report on specific potential measures recommended for Council action.

#### **ALTERNATIVE ACTIONS:**

Council could direct the City Attorney to implement only some of the recommendations or provide alternative recommendations.

#### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

On March 7, 2018, the City Council adopted an ordinance condemning gun violence and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill.

## **FISCAL AND RESOURCE IMPACT:**

### **Fiscal:**

The proposed ordinance(s) would be regulatory.

If a permit is required, we would recommend the creation of a cost-recovery regulatory fee.

### **Resource:**

While the creation of ordinances would require significant City Attorney time, these efforts should not impact other tasks.

## **CEQA (California Environmental Quality Act):**

Not a Project

Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

## **LINKS/ATTACHMENTS:**

1. March 7, 2018 Gun Violence Staff report (Weblink)
2. Gun Violence Resolution 18-22
3. 13 Supplement 1
4. 13 Supplement 2
5. 13 Supplement 3

# **EXHIBIT I**



**Meeting Minutes  
City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, May 16, 2018 6:30 pm**

**Council Chamber  
17555 Peak Avenue, Morgan Hill, CA 95037**

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**SPECIAL/REGULAR MEETING**

**(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)**

***A special meeting of the City Council was called at 6:30 p.m. for the purpose of conducting a closed session.***

**SPECIAL MEETING**

**6:30 P.M.**

**CALL TO ORDER**

Mayor Tate called the special meeting to order at 6:30 p.m.

**ROLL CALL ATTENDANCE**

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Rich Constantine	Mayor Pro Tem	Late	6:37 PM
Larry Carr	Council Member	Present	

Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

## **DECLARATION OF POSTING AGENDA**

Deputy City Clerk Michelle Bigelow declared the posting of the agenda.

### **CLOSED SESSION**

### **CLOSED SESSION ANNOUNCEMENT**

City Attorney Donald Larkin announced the closed session items.

### **OPPORTUNITY FOR PUBLIC COMMENT**

The public comment was opened at 6:31 p.m.

There being no requests to speak, the public comment was closed.

### **ADJOURN TO CLOSED SESSION**

The special meeting adjourned to closed session at 6:33 p.m.

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: Morgan Hill Hotel Coalition, et al. v. City of Morgan Hill  
Case Number: California Supreme Court Case No. S243042

### **CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Authority: Pursuant to Government Code section 54956.9(b)  
Number of Cases: 1  
Potential Plaintiff: Morgan Hill Hotel Coalition

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: United States of America v. State of California  
Case Number: U.S. District Court, Easter Dist., California No. 18-264

## **REGULAR MEETING**

**7:00 P.M.**

### **RECONVENE**

The regular meeting convened at 7:03 p.m.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Carr gave an update on the Upper Llagas Flood Control Project. This project, once complete, would alleviate flooding throughout Morgan Hill. He shared that the project has been in the works for decades. It is a US Army Corps of Engineers project that is planned in two phases. Phase 1 includes construction from the north end of Gilroy up to the south end of Morgan Hill at Watsonville Road and includes Lake Silveira. Phase 2 includes from Watsonville Road up Monterrey Road to the north end of Morgan Hill. The Santa Clara Valley Water District (SCVWD) has approved the final environmental impact report and all the Phase 1 design work has been completed. All the permits, except for one, have been acquired. The US Army Corps of Engineers is working with the Fish and Wildlife Service on the last permit. They are expecting to obtain the last permit early this summer and then go out to bid for construction of the project in August. The actual construction is expected to begin in November 2018. We have learned that it is very hard to estimate dates when working with the federal regulatory agencies. The Phase 2 design work is about 90% complete and City staff is currently reviewing the construction documents for that phase. This project will require about 146 property acquisitions, not whole properties, rather sections or slivers of property along the creek. Phase 1 requires 44 property acquisitions, of which 42 have been made. The final two have reached settlements and need to close escrow. Phase 2 impacts about 102 properties, many of which would be temporary construction easements. Those agreements are almost complete. If things continue to progress as they have over the past couple of years, we expect to break ground on the project in November 2018 with the construction taking about two years.

He then provided an update on his work with the Valley Transportation Authority (VTA) regarding mobility between San Benito County and Santa Clara County, particularly the Highway 152 and 25 corridors. Those corridors have been identified as areas of significant economic interest for Santa Clara County and recently the California Transportation Commission recommended \$4.2 million from the Trade Corridors Enhancement Program, all State monies, to go to VTA specifically for these projects. This will allow the VTA to start the design of the improvements for the Highway 25/101 interchange.

He concluded by wishing his daughter Katie a happy 16th birthday.

## **CITY MANAGER'S REPORT**

City Manager Christina Turner announced the evening's supplements and presentations. She mentioned that the AMGEN Tour of California time trials took place in Morgan Hill today. She thanked the Council for having the vision to go forward with having the AMGEN race in Morgan Hill. She also gave a shout out to her teammates for their dedication and hard work which made the event a success. We have received a lot of positive feedback. She shared that the recommended budget was introduced at the last City Council meeting and announced that the Budget Workshop will be held this Friday, May 18 at 9:00 a.m. in the Council Chamber. The budget adoption is scheduled for Wednesday, June 6.

She announced that the First Annual South County Law Enforcement Recognition event will take place this Saturday, May 19 at 11:00 a.m. at the Community and Cultural Center. This event is in conjunction with our faith-based community and is open to the public.

She shared that in June we will be recognizing Pride Month. The Library will be having two events. The first will be a movie screening on Monday, June 11 at 7:00 p.m. and the second will be a speaker's panel on Tuesday, June 26 at 7:00 p.m.

## **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin announced that Council voted unanimously in the closed session to authorize



the City Attorney to sign on to an Amicus Brief authored by the County of Santa Clara in the case of United States of America vs. State of California US District Court Eastern District of California number 18-264. The Amicus Brief will focus on the need for law enforcement to remain independent of immigration enforcement to ensure good community relations and effective policing.

## **OTHER REPORTS**

None.

## **PROCLAMATIONS**

Proclaiming May 15, 2018 as National Peace Officers Memorial Day and the week of May 13-19, 2018 as National Police Week

Proclaiming the week of May 20-26, 2018 as Public Works Week

Proclaiming the Month of May as Older Americans Month

Proclaiming the Month of May as Foster Care/Resource Parent Awareness Month

## **RECOGNITIONS**

Recognizing Gladys Aichele for 20+ years of volunteering with the Senior Center

Recognizing the Library Culture and Arts Commission for the Art a la Carte Program

Recognizing Merrill Lynch Morgan Hill for Community Services

## **MERRILL LYNCH RECOGNITION PRESENTATION**

## **PRESENTATIONS**

YAC PRESENTATION - ASSET #18 YOUTH PROGRAMS

## **PUBLIC COMMENT**

The public comment was opened at 7:37 p.m.

Dave Truslow was called to speak.

There being no further requests to speak, the public comment was closed.

## **HANDOUT FROM PUBLIC**

## **ADOPTION OF AGENDA**

### **MOTION:**

Adopting the amended agenda as posted.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rich Constantine, Mayor Pro Tem
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **CONSENT CALENDAR**

### **MOTION:**

Approving consent calendar items 1 through 4, 6, and 9 through 12.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

### **1. RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER**

Recommendation:

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

### **2. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION**

Recommendation:

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

### **3. APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY**

Recommendation:

Review and Approve the City Council and Planning Commission Email Policy.

### **4. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018**

Recommendation:

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

### **5. ITEM PULLED FOR DISCUSSION**

### **6. ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND**

Recommendation:

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

**7. ITEM PULLED FOR DISCUSSION**

**8. ITEM PULLED FOR SEPARATE VOTE**

**9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.**

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

**10. AMEND AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.**

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

**11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION**

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

**12. APPROVE THE MAY 2, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

**ITEMS PULLED FOR DISCUSSION**

**5. REBUILDING TOGETHER REHAB PROGRAM AGREEMENT**

Recommendation:

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

**7. AIRBNB VOLUNTARY COLLECTION AGREEMENT**

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Caitlin Jachimowicz, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **ITEM PULLED FOR SEPARATE VOTE**

### **8. CALIFORNIA HIGH SPEED RAIL AUTHORITY - REIMBURSEMENT AGREEMENT AMENDMENT**

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>APPROVED [4 TO 0]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Jachimowicz, Spring
<b>RECUSED:</b>	Carr

## **OTHER BUSINESS**

### **13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE**

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

City Attorney Donald Larkin provided the report.

The public comment was opened at 7:54 p.m. The following people were called to speak:

G. Mitchell Kirk  
Glen Murray  
Dave Truslow  
Lawrence Townsend  
Brian Wong  
Katie Khera

Trevor Bacolini

There being no further requests to speak, the public comment was closed.

**MOTION:**

Directing staff to draft ordinances along the lines of the four suggested actions in the staff report including the comments that Council Members have made tonight.

The meeting went into recess at 8:46 p.m.

The meeting was reconvened at 8:55 p.m.

<b>RESULT:</b>	<b>DIRECTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **PUBLIC HEARING**

### **14. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1**

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Interim Deputy City Manager Chris Ghione provided the report.

The public comment was opened at 8:59 p.m.

There being no requests to speak, the public comment was closed.

**MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rich Constantine, Mayor Pro Tem
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

### **15. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)**

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Interim Principal Planner John Baty, along with Ben Noble with Placeworks, provided the report.

The public comment was opened at 9:19 p.m. The following people were called to speak:  
Paul Henry  
Rocke Garcia  
Asit Panwala  
John Horner  
There being no further requests to speak, the public comment was closed.

**MOTION:**

Waiving the first and second reading of the Zoning Code Update Ordinance.

<b>RESULT:</b>	<b>WAIVED [UNANIMOUS]</b>
<b>MOVER:</b>	Rich Constantine, Mayor Pro Tem
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

**MOTION:**

Introducing the Zoning Code Update Ordinance with staff recommended actions.

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Rich Constantine, Mayor Pro Tem
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

## **OTHER BUSINESS**

### **16. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT**

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

City Manager Christina Turner, along with Interim Deputy City Manager Chris Ghione, Police Chief David Swing, and Economic Development Director Edith Ramirez provided the report.

The public comment was opened at 9:57 p.m. The following people were called to speak:  
John Horner  
Andrew Firestone  
Asit Panwala  
Michaela Toscas  
Trevor Bacolini  
There being no further requests to speak, the public comment was closed.

**MOTION:**

Direct staff to come back with language to put a tax measure for cannabis on the November 2018 ballot including medical and recreational uses.

<b>RESULT:</b>	<b>DIRECTED [4 TO 1]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Caitlin Jachimowicz, Council Member
<b>AYES:</b>	Constantine, Carr, Jachimowicz, Spring
<b>NAYS:</b>	Tate

**MOTION:**

Extending the meeting to 11:10 p.m.

<b>RESULT:</b>	<b>EXTENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Rich Constantine, Mayor Pro Tem
<b>SECONDER:</b>	Steve Tate, Mayor
<b>AYES:</b>	Tate, Constantine, Carr, Jachimowicz, Spring

**MOTION:**

Directing staff to bring back language that would be a TOT measure that would in someway include the goals of the TBID.

<b>RESULT:</b>	<b>DIRECTED [4 TO 1]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Constantine, Carr, Jachimowicz, Spring
<b>NAYS:</b>	Tate

## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

None.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:08 p.m.

**MINUTES PREPARED BY:**

Michelle Bigelow, Deputy City Clerk

# **EXHIBIT J**





CITY OF MORGAN HILL

**Regular Meeting Agenda**

**City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, March 7, 2018 7:00 pm**

**Council Chamber**  
**17555 Peak Avenue, Morgan Hill, CA 95037**

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**TELECONFERENCE**

Mayor Tate will be participating in the regular meeting via teleconference as follows:

Mayor Steve Tate  
4610 North 68th Street, Unit 438  
Scottsdale, AZ 85251

Public comment from the Arizona location shall be allowed.

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

**CALL TO ORDER**

*(Mayor Pro Tem Constantine)*

**ROLL CALL ATTENDANCE**

**DECLARATION OF POSTING AGENDA**

Per Government Code Section 54954.2  
*(Deputy City Clerk Wilson)*

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Jachimowicz

## **CITY MANAGER'S REPORT**

## **CITY ATTORNEY'S REPORT**

## **OTHER REPORTS**

## **PROCLAMATIONS**

Proclaiming the month of March 2018 as Youth Art Month

Proclaiming the month of March 2018 as American Red Cross Month

Proclaiming the week of April 5-8, 2018 as Poppy Jasper International Film Festival Days

## **POPPY JASPER INTERNATIONAL FILM FESTIVAL PRESENTATION**

## **AMERICAN RED CROSS PRESENTATION**

## **PRESENTATIONS**

### **RELAY FOR LIFE PRESENTATION**

### **YAC PRESENTATION- ASSET #14- ADULT ROLE MODELS**

## **PUBLIC COMMENT**

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

## **ADOPTION OF AGENDA**

## **CONSENT CALENDAR**

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

**1. ADOPT A RESOLUTION ENCOURAGING THE ANNUAL CELEBRATION OF THE MONTH OF JUNE AS LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER/QUESTIONING PRIDE MONTH**

Recommendation:

1. Adopt resolution encouraging the annual celebration of the month of June as Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Pride Month; and
2. Authorize the display of the Pride flag at City Hall, the Centennial Recreation Center, and Community and Cultural Center annually during the month of June to commemorate Pride Month.

**2. APPROVE CITY SPONSORSHIP OF 2018 MORGAN HILL COMMUNITY FOUNDATION'S PHILANTHROPY DAY EVENT AT THE COMMUNITY AND CULTURAL CENTER**

Recommendation:

Authorize the City Manager to waive the rental fee for the use of the Community and Cultural Center for the Morgan Hill Community Foundation's Philanthropy Day Event on November 9, 2018.

**3. RESOLUTION ADDING A PROPERTY ASSESSED CLEAN ENERGY PROVIDER**

Recommendation:

Adopt resolution authorizing the California Municipal Finance Authority (CMFA) Open Property Assessed Clean Energy ("PACE") Program to operate in Morgan Hill.

**4. ACCEPTANCE OF EASEMENT IN ASSOCIATION WITH WATER DISTRICT ACQUISITION OF LAKE SILVEIRA**

Recommendation:

Authorize the City Manager to execute, administer, and further negotiate a conservation easement agreement and related documents for recreational use of certain areas of Lake Silveira to support the purchase of property by the Santa Clara Valley Water District.

**5. COMMAND VEHICLE APPROPRIATION**

Recommendation:

Adopt resolution approving an amendment to the City's Fiscal Year 2017-18 budget in the general fund appropriating \$699,186 for the purchase of a grant funded public safety command vehicle.

**6. PURCHASE OF A CCTV SEWER INSPECTION TRUCK**

Recommendation:

1. Authorize the City Manager to approve the purchase of a Closed Circuit Television Video (CCTV) inspection truck with RST/Subsite Electronics Inc. in the estimated amount of \$170,000;
2. Determine that a competitive bid process will not likely result in lower pricing; and
3. Adopt resolution appropriating \$129,000 from the Equipment Replacement Fund (Sewer Reserves) towards the purchase of new CCTV inspection truck.

**7. PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. TO PROVIDE INSPECTION SERVICES AND PLAN CHECK/REVIEW ASSISTANCE**

Recommendation:

Adopt resolution approving the following:

1. Amend the City's Fiscal Year 2017-18 budget for Building and Land Development Engineering Divisions in the Community Development Fund, to appropriate an additional \$150,000 for plan check/review services; and
2. Approve a professional services agreement with CSG Consultants, Inc. to provide Building and Land Development Engineering inspection and plan check/review services and public works inspection for 24 months in an amount not to exceed \$1,250,000.

**8. APPROVAL OF IMPROVEMENT AGREEMENT WITH SUNSWEET MORGAN HILL LLC**

Recommendation:

1. Approve an Improvement Agreement with Sunsweet Morgan Hill LLC;
2. Authorize the City Manager to execute the Improvement Agreement;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Improvement Agreement and the Stormwater BMP Operation and Maintenance Agreement.

**9. SECOND AMENDMENT TO WEST COAST ARBORIST, INC. AGREEMENT FOR CITYWIDE TREE SERVICES**

Recommendation:

Approve the Second Amendment to the Maintenance Service Agreement with West Coast Arborist.

**10. SECOND AMENDMENT TO AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. FOR THE HALE AVENUE EXTENSION PROJECT**

Recommendation:

Approve and authorize the City Manager to execute a Second Amendment to agreement with Associated Right of Way Services, Inc. in the amount of \$25,000, for a total contract amount not to exceed \$170,000 to continue with property acquisition efforts for the Hale Avenue Extension Project.

**11. APPROVE THIRD AMENDMENT TO BURR PLUMBING AND PUMPING, INC. AGREEMENT**

Recommendation:

Approve the Third Amendment to the Maintenance Service Agreement with Burr Plumbing and Pumping, Inc.

## **12. GENERAL PLAN AND HOUSING ELEMENT ANNUAL PROGRESS REPORT**

Recommendation:

Adopt resolution accepting the 2017 General Plan and Housing Element Annual Progress Report and directing staff to file the report with the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD).

## **13. ADOPT ORDINANCE APPROVING ZONING AMENDMENT ZA2017-0010 FOR THE CC-R-(PD) PLANNED DEVELOPMENT OVERLAY DISTRICT AND PRECISE DEVELOPMENT PLAN FOR A 39-UNIT AFFORDABLE RESIDENTIAL DEVELOPMENT TO BE LOCATED ON A 1.62-ACRE SITE LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE (APN 817-36-032 AND 817-36-033)**

Recommendation:

Waive the reading, adopt Ordinance No. 2269, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **14. ADOPT ORDINANCE APPROVING DEVELOPMENT AGREEMENT DA2017-0006: MONTEREY-UHC FOR A 39-UNIT AFFORDABLE RESIDENTIAL DEVELOPMENT ON A 1.62-ACRE SITE LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE. (APN 817-36-032 AND 033)**

Recommendation:

Waive the reading, adopt Ordinance No. 2270, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **15. ADOPT ORDINANCE ADDING CHAPTER 8.49 (FIRE ALARM REGULATIONS) TO TITLE 8 (HEALTH AND SAFETY) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO REQUIRE FINES FOR NUISANCE AND EXCESSIVE FALSE FIRE ALARMS**

Recommendation:

Waive the reading, adopt Ordinance No. 2271, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **16. ADOPT ORDINANCE AMENDING CHAPTER 8.48 (BURGLARY AND ROBBERY ALARM SYSTEM REGULATIONS) OF TITLE 8 (HEALTH AND SAFETY) OF THE MORGAN HILL MUNICIPAL CODE TO CLARIFY CERTAIN TERMS AND RESPONSIBILITIES OF ALARM SYSTEM OWNERS AND OPERATORS, DELETE REGISTRATION REQUIREMENTS, AND TO UPDATE ENFORCEMENT PROCEDURES**

Recommendation:

Waive the reading, adopt Ordinance No. 2272, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

## **17. APPROVE THE FEBRUARY 21, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

## **PUBLIC HEARING**

### **18. ZA2017-0007, DA2017-0003, SD2016-0009, EA2016-0009: E. DUNNE-KYONO - ZONING AMENDMENT FOR PLANNED DEVELOPMENT, DEVELOPMENT AGREEMENT, AND NON-VESTING TENTATIVE MAP FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-02-014 LOCATED AT 505 E. DUNNE AVENUE**

Recommendation:

Open/close the public hearing and continue the project to the April 18, 2018 City Council meeting.

Estimated Time: 5 Minutes

## **OTHER BUSINESS**

### **19. ADOPT RESOLUTION CONDEMNING GUN VIOLENCE**

Recommendation:

1. Adopt resolution condemning gun violence; and
2. Direct staff to return with specific actions to help prevent future gun violence.

Estimated Time: 15 Minutes

### **20. APPROPRIATE FUNDS FOR HIGH SPEED RAIL CONSULTANT AGREEMENTS**

Recommendation:

1. Adopt resolution approving an amendment to the City's Fiscal Year 2017-18 budget appropriating \$323,019 from the Long Range Planning Fund for expenses associated with the High Speed Rail Project; and
2. Direct staff to put on hold the contract with Urban Field Studios.

Estimated Time: 15 Minutes

## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

## **CLOSED SESSION**

## **OPPORTUNITY FOR PUBLIC COMMENT**

## **ADJOURN TO CLOSED SESSION**

Pursuant to: Government Code Section 54956.8

Property: 17545 Depot Street; 726-14-041

Agency Negotiators:	Leslie Little, Assistant City Manager
Negotiating Parties:	Ralph H. Bader, Trustee for Ralph H. Bader Trust
Under Negotiation:	Price and Terms of Payment

## **RECONVENE**

## **CLOSED SESSION ANNOUNCEMENT**

## **ADJOURNMENT**

## NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

## PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov).

## AMERICANS WITH DISABILITIES ACT (ADA)

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov). Requests must be made as early as possible and at least two-full business days before the start of the meeting.*





## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: March 7, 2018**

PREPARED BY: Donald Larkin, City Attorney  
APPROVED BY: City Manager

## **ADOPT RESOLUTION CONDEMNING GUN VIOLENCE**

### **RECOMMENDATION(S)**

1. Adopt resolution condemning gun violence; and
2. Direct staff to return with specific actions to help prevent future gun violence.

### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

#### **Ongoing Priorities**

Enhancing Public Safety  
Supporting Our Youth  
Seniors  
and Entire Community

#### **2018 Strategic Priorities**

Community Engagement and Messaging  
Regional Initiatives

### **POLICY CONSIDERATIONS:**

Should the City Council take specific action to help prevent gun violence?

Should the City of Morgan Hill advocate for gun violence prevention measures at all levels of government?

### **REPORT NARRATIVE:**

On February 14, 2018, a 19 year-old gunman opened fire at Marjory Stoneman Douglas High School in Parkland, Florida, killing 14 students and 3 adults. This incident was just the latest in a growing number of horrific and senseless mass shootings that have occurred in recent years.

At the February 21, 2018 City Council meeting, Council Members Spring and Carr issued statements of support for the Parkland community and Council Member Carr further asked the City Attorney to prepare a resolution condemning gun violence and calling for specific actions to prevent further senseless deaths.

The proposed Resolution commits the City to advocate for state and federal bans on both military style assault weapons and high-capacity ammunition magazines, stronger background checks for all gun and ammunition purchases, revoking the prohibition on federally funded research on gun-related deaths, and rescinding the gun industry's immunity.

The proposed Resolution also states that the City Council will consider local actions to regulate gun and ammunition sales in the City of Morgan Hill.

In addition to the proposed Resolution, the City Attorney is seeking direction regarding other potential actions the City Council would like staff to explore. Some ideas include:

- Calling on CalPERS and other City investment funds to require any firearms manufacturer that they invest in to conduct criminal background checks for all gun transactions, and to ensure that their business partners (including gun shows and dealers) abide by the same standards.
- Require employees of businesses that sell firearms in Morgan Hill to undergo training to identify straw purchasers so that they can avoid selling guns that are likely to be used in a crime.
- Require local gun dealers to maintain detailed inventories to quickly identify stolen or missing firearms.

Based on Council direction, staff will make detailed recommendations for Council action at a future Council meeting.

#### **COMMUNITY ENGAGEMENT: Inform**

This report and the attached Resolution serve to inform the community about the problem of gun violence and the City Council's desire to take concrete action to help solve the problem.

#### **ALTERNATIVE ACTIONS:**

Council could choose not to adopt the Resolution or to modify the Resolution.

#### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

None

#### **FISCAL AND RESOURCE IMPACT:**

Fiscal:

Adoption of the Resolution will not have a fiscal impact on the City. Future Council actions in furtherance of the goals of the Resolution will be analyzed when staff makes specific recommendations.

Resource:

Depending on the direction given, staff time will be needed to evaluate and prepare specific proposals for future action. However, we do not anticipate that the additional workload will impact any other work.

#### **CEQA (California Environmental Quality Act): Not a Project**

Proposals for legislation to be enacted by the State Legislature, and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment are not projects subject to CEQA review.

**LINKS/ATTACHMENTS:**

1. Resolution Gun Violence
2. 19 Presentation

## RESOLUTION NO.

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CALLING FOR ACTION TO PREVENT GUN VIOLENCE

WHEREAS, the City of Morgan Hill is a safe, inclusive, socially responsible, environmentally conscious, and economically sound community; and

WHEREAS, public safety is the highest priority for the City of Morgan Hill; and

WHEREAS, the United States has the highest rate of firearms related deaths among industrialized nations; and

WHEREAS, on December 14, 2012, a 20 year old gunman killed 20 first-grade children and six adults at Sandy Hook Elementary school in Newtown, Connecticut; and

WHEREAS, on September 16, 2013, a gunman killed 12 people and injured 3 others inside the Washington Navy Yard in Washington D.C.; and

WHEREAS, on December 2, 2015, when a married couple shot and killed 14 people and injured 22 others at a training and holiday party for the San Bernardino Department of Public Health; and

WHEREAS, on June 12, 2016, a gunman killed 49 people and injured 58 others at a nightclub in Orlando, Florida; and

WHEREAS, on October 1, 2017, a gunman killed 58 people and injured 851 others during a music festival in Las Vegas, Nevada; and

WHEREAS, on February 14, 2018, a 19 year old gunman shot and killed 17 people (14 of them teenaged students) and injured 14 others at Marjory Stoneman Douglas High School in Parkland, Florida; and

WHEREAS, the above listed events are just a tiny fraction of the mass shootings and other gun violence incidents that have occurred over the past five years; and

WHEREAS, in just the first two months of 2018 there were 8,690 gun violence incidents in the United States, resulting in 2,336 deaths and 3,974 injuries, including death or injury to 536 children and teens; and

Attachment: Resolution Condemning Gun Violence (1667 : Resolution Condemning Gun Violence)

WHEREAS, gun violence incidents in 2018 include at least thirty mass shooting incidents in which four or more innocent victims were shot.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY RESOLVE AS FOLLOWS:

1. The City of Morgan Hill condemns all acts of gun violence, and calls on all levels of government to take strong action to prevent further senseless deaths from firearms.
2. The City Council will consider commonsense local measures to regulate gun and ammunition sales in the City of Morgan Hill, including business license requirements for training of employees and inventory monitoring.
3. The City Council will advocate for state and federal bans on both military style assault weapons and high-capacity ammunition magazines, stronger background checks for all gun and ammunition purchases, revoking the prohibition on federally funded research on gun-related deaths, and rescinding the gun industry's immunity.

**PASSED AND ADOPTED** by the City Council of the City of Morgan Hill at its regular meeting held on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Steve Tate, MAYOR**

**∞ CERTIFICATION ∞**

**I, Irma Torrez, City Clerk of the City of Morgan Hill, California,** do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX , adopted by the City Council at its regular meeting held on     , 201\_.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Irma Torrez, CITY CLERK**

**Attachment: Reso re Gun Violence (1667 : Resolution Condemning Gun Violence)**



# *Morgan Hill Response to Gun Violence and Gun Violence Prevention*

# Policy Considerations

- Should the City Council take specific local action to help prevent gun violence?
- Should the City of Morgan Hill advocate for gun violence prevention measures at all levels of government?



# Topics

- Second Amendment
- Local Police Power Regulations
- Resolution Condemning Gun Violence and Call for State and Federal Action to prevent future incidents

# Second Amendment

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

- There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms.
- *District of Columbia v. Heller* (2008) 554 U.S. 570, 595

- Of course the right [to keep and bear arms] was not unlimited, just as the First Amendment's right of free speech was not . . . Thus, we do not read the Second Amendment to protect the right of citizens to carry arms for *any sort* of confrontation, just as we do not read the First Amendment to protect the right of citizens to speak for *any purpose*. *District of Columbia v. Heller* (2008) 554 U.S. 570, 595
- “ . . . [n]othing in [the Supreme Court’s] recent opinions is intended to cast doubt on the constitutionality of longstanding prohibitions traditionally understood to be outside the scope of the Second Amendment.” *Fyok v. City of Sunnyvale*, (2015) 779 F. 3d 991, 996
- “ . . . longstanding prohibitions on the possession of “dangerous and unusual weapons” have uniformly been recognized as falling outside the scope of the Second Amendment.” *Id. at 997*

# Police Powers

- A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Cal. Const., art. XI, § 7

# Police Powers

- Conditional Use Permit
- Local ban on sales of assault-style weapons to anyone under 21
- Local ban on sales of high-capacity magazines
- Restrict carrying/sales of firearms on City property

# Policy Considerations

- Should the City Council take specific local action to help prevent gun violence?
- Should the City of Morgan Hill advocate for gun violence prevention measures at all levels of government?





# **EXHIBIT K**



## **Meeting Minutes City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, March 7, 2018 7:00 pm**

**Council Chamber**  
**17555 Peak Avenue, Morgan Hill, CA 95037**

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### **TELECONFERENCE**

Mayor Tate participated in the regular meeting via teleconference as follows:

Mayor Steve Tate  
4610 North 68th Street, Unit 438  
Scottsdale, AZ 85251

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

### **CALL TO ORDER**

Mayor Pro Tem Constantine called the meeting to order at 7:00 pm.

### **ROLL CALL ATTENDANCE**

Deputy City Clerk Michelle Bigelow called the roll.

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Steve Tate	Mayor	Remote	
Rich Constantine	Mayor Pro Tem	Present	
Larry Carr	Council Member	Present	
Caitlin Jachimowicz	Council Member	Absent	
Rene Spring	Council Member	Present	

## **DECLARATION OF POSTING AGENDA**

Deputy City Clerk Michelle Bigelow declared the posting of the agenda.

Mayor Tate declared the posting of the agenda at his teleconference location.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

None.

## **CITY MANAGER'S REPORT**

City Manager Christina Turner announced that Council Member Caitlin Robinett Jachimowicz and her family welcomed their new baby boy, Griffin Nathaniel Robinett Jachimowicz.

She announced that the American Association of University Women (AAUW) hosted a workshop last week called "Learn How to Build a Successful Campaign." The video for that workshop can be found on the City's You Tube Channel.

She shared that on March 26, 2018 at 7:00 pm in the Council Chamber, the City will be holding a gray water workshop where you can learn how to safely reuse water from washing machines. More information is available on our website.

She highlighted that Open Counter is a new permitting software that is now live. It is a portal that allows members of the community, business as well as residential, to come in or from the comforts of their home, research potential permitting that they may want to do. The portal has a variety of matrices it can track. Since January 1, 2018, the portal has had 2,940 visits. Additionally, it has saved 42 hours of staff time and 401 projects have been started using the portal.

She concluded by speaking to the evening's supplements and presentations.

## **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin had no report.

## **OTHER REPORTS**

None.

## **PROCLAMATIONS**

Proclaiming the month of March 2018 as Youth Art Month

Proclaiming the month of March 2018 as American Red Cross Month

Proclaiming April 5-8, 2018 as Poppy Jasper International Film Festival Days

POPPY JASPER INTERNATIONAL FILM FESTIVAL PRESENTATION

AMERICAN RED CROSS PRESENTATION

**PRESENTATIONS**

RELAY FOR LIFE PRESENTATION

YAC PRESENTATION- ASSET #14- ADULT ROLE MODELS

**PUBLIC COMMENT**

The public comment was opened at 7:35 pm.

Swanee Edwards was called to speak.

There being no further requests to speak, the public comment was closed.

**ADOPTION OF AGENDA**

**MOTION:**

Adopting the agenda continuing item 20 to the April 4, 2018 City Council meeting and removing the closed session from the agenda.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

**CONSENT CALENDAR**

**MOTION:**

Approving consent calendar items 2, 3, 5 through 7, and 9 through 17.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

**1. ITEM PULLED FOR DISCUSSION**

**2. APPROVE CITY SPONSORSHIP OF 2018 MORGAN HILL COMMUNITY FOUNDATION'S PHILANTHROPY DAY EVENT AT THE COMMUNITY AND CULTURAL CENTER**

Recommendation:

Authorize the City Manager to waive the rental fee for the use of the Community and Cultural Center for the Morgan Hill Community Foundation's Philanthropy Day Event on November 9, 2018.

**3. RESOLUTION ADDING A PROPERTY ASSESSED CLEAN ENERGY PROVIDER**

Recommendation:

Adopt resolution authorizing the California Municipal Finance Authority (CMFA) Open Property Assessed Clean Energy ("PACE") Program to operate in Morgan Hill.

**4. ITEM PULLED FOR DISCUSSION**

**5. COMMAND VEHICLE APPROPRIATION**

Recommendation:

Adopt resolution approving an amendment to the City's Fiscal Year 2017-18 budget in the general fund appropriating \$699,186 for the purchase of a grant funded public safety command vehicle.

**6. PURCHASE OF A CCTV SEWER INSPECTION TRUCK**

Recommendation:

1. Authorize the City Manager to approve the purchase of a Closed Circuit Television Video (CCTV) inspection truck with RST/Subsite Electronics Inc. in the estimated amount of \$170,000;
2. Determine that a competitive bid process will not likely result in lower pricing; and
3. Adopt resolution appropriating \$129,000 from the Equipment Replacement Fund (Sewer Reserves) towards the purchase of new CCTV inspection truck.

**7. PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. TO PROVIDE INSPECTION SERVICES AND PLAN CHECK/REVIEW ASSISTANCE**

Recommendation:

Adopt resolution approving the following:

1. Amend the City's Fiscal Year 2017-18 budget for Building and Land Development Engineering Divisions in the Community Development Fund, to appropriate an additional \$150,000 for plan check/review services; and
2. Approve a professional services agreement with CSG Consultants, Inc. to provide Building and Land Development Engineering inspection and plan check/review services and public works inspection for 24 months in an amount not to exceed \$1,250,000.

**8. ITEM PULLED FOR DISCUSSION**

**9. SECOND AMENDMENT TO WEST COAST ARBORIST, INC. AGREEMENT FOR CITYWIDE TREE SERVICES**

Recommendation:

Approve the Second Amendment to the Maintenance Service Agreement with West Coast Arborist.

**10. SECOND AMENDMENT TO AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. FOR THE HALE AVENUE EXTENSION PROJECT**

Recommendation:

Approve and authorize the City Manager to execute a Second Amendment to agreement with Associated Right of Way Services, Inc. in the amount of \$25,000, for a total contract amount not to exceed \$170,000 to continue with property acquisition efforts for the Hale Avenue Extension Project.

**11. APPROVE THIRD AMENDMENT TO BURR PLUMBING AND PUMPING, INC. AGREEMENT**

Recommendation:

Approve the Third Amendment to the Maintenance Service Agreement with Burr Plumbing and Pumping, Inc.

**12. GENERAL PLAN AND HOUSING ELEMENT ANNUAL PROGRESS REPORT**

Recommendation:

Adopt resolution accepting the 2017 General Plan and Housing Element Annual Progress Report and directing staff to file the report with the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD).

**13. ADOPT ORDINANCE APPROVING ZONING AMENDMENT ZA2017-0010 FOR THE CC-R-(PD) PLANNED DEVELOPMENT OVERLAY DISTRICT AND PRECISE DEVELOPMENT PLAN FOR A 39-UNIT AFFORDABLE RESIDENTIAL DEVELOPMENT TO BE LOCATED ON A 1.62-ACRE SITE LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE (APN 817-36-032 AND 817-36-033)**

Recommendation:

Waive the reading, adopt Ordinance No. 2269, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**14. ADOPT ORDINANCE APPROVING DEVELOPMENT AGREEMENT DA2017-0006: MONTEREY-UHC FOR A 39-UNIT AFFORDABLE RESIDENTIAL DEVELOPMENT ON A 1.62-ACRE SITE LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND BISCEGLIA AVENUE. (APN 817-36-032 AND 033)**

Recommendation:

Waive the reading, adopt Ordinance No. 2270, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**15. ADOPT ORDINANCE ADDING CHAPTER 8.49 (FIRE ALARM REGULATIONS) TO TITLE 8 (HEALTH AND SAFETY) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO REQUIRE FINES FOR NUISANCE AND EXCESSIVE FALSE FIRE ALARMS**

Recommendation:

Waive the reading, adopt Ordinance No. 2271, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**16. ADOPT ORDINANCE AMENDING CHAPTER 8.48 (BURGLARY AND ROBBERY ALARM SYSTEM REGULATIONS) OF TITLE 8 (HEALTH AND SAFETY) OF THE MORGAN HILL MUNICIPAL CODE TO CLARIFY CERTAIN TERMS AND RESPONSIBILITIES OF ALARM SYSTEM OWNERS AND OPERATORS, DELETE REGISTRATION REQUIREMENTS, AND TO UPDATE ENFORCEMENT PROCEDURES**

Recommendation:

Waive the reading, adopt Ordinance No. 2272, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

#### **17. APPROVE THE FEBRUARY 21, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

### **ITEMS PULLED FOR DISCUSSION**

#### **1. ADOPT A RESOLUTION ENCOURAGING THE ANNUAL CELEBRATION OF THE MONTH OF JUNE AS LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER/QUESTIONING PRIDE MONTH**

Recommendation:

1. Adopt resolution encouraging the annual celebration of the month of June as Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Pride Month; and
2. Authorize the display of the Pride flag at City Hall, the Centennial Recreation Center, and Community and Cultural Center annually during the month of June to commemorate Pride Month.

The public comment was opened at 7:40 pm.

Brian Faircloth was called to speak.

There being no further requests to speak, the public comment was closed.

#### **MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rene Spring, Council Member
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

#### **4. ACCEPTANCE OF EASEMENT IN ASSOCIATION WITH WATER DISTRICT ACQUISITION OF LAKE SILVEIRA**

Recommendation:

Authorize the City Manager to execute, administer, and further negotiate a conservation easement agreement and related documents for recreational use of certain areas of Lake Silveira to support the purchase of property by the Santa Clara Valley Water District.

The public comment was opened at 7:47 pm.

Rocke Garcia was called to speak.

There being no further requests to speak, the public comment was closed.

#### **MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>AUTHORIZED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

## **8. APPROVAL OF IMPROVEMENT AGREEMENT WITH SUNSWEET**

Recommendation:

1. Approve an Improvement Agreement with Sunsweet Morgan Hill LLC;
2. Authorize the City Manager to execute the Improvement Agreement;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Improvement Agreement and the Stormwater BMP Operation and Maintenance Agreement.

The public comment was opened at 7:50 pm.

Rocke Garcia was called to speak.

There being no further requests to speak, the public comment was closed.

### **MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Steve Tate, Mayor
<b>SECONDER:</b>	Larry Carr, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

## **PUBLIC HEARING**

### **18. ZA2017-0007, DA2017-0003, SD2016-0009, EA2016-0009: E. DUNNE-KYONO - ZONING AMENDMENT FOR PLANNED DEVELOPMENT, DEVELOPMENT AGREEMENT, AND NON-VESTING TENTATIVE MAP FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-02-014 LOCATED AT 505 E. DUNNE AVENUE**

Recommendation:

Open/close the public hearing and continue the project to the April 18, 2018 City Council meeting.

City Attorney Donald Larkin excused himself from the dais.

City Manager Christina Turner provided the report.

The public comment was opened at 7:52 pm.

There being no requests to speak, the public comment was closed

### **MOTION:**

Continuing the item to the April 18, 2018 City Council meeting.



<b>RESULT:</b>	<b>CONTINUED TO A FUTURE MEETING [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

## **OTHER BUSINESS**

### **19. ADOPT RESOLUTION CONDEMNING GUN VIOLENCE**

Recommendation:

1. Adopt resolution condemning gun violence; and
2. Direct staff to return with specific actions to help prevent future gun violence.

City Attorney Donald Larkin resumed his seat at the dais and presented the report.

The public comment was opened at 8:05 pm. The following people were called to speak:

Brian Faircloth

Ken Murray

Nicola

John

Anthony

Christian

Allison

Michelle

There being no further requests to speak, the public comment was closed.

The meeting went into recess at 8:20 pm.

The meeting was reconvened at 8:28 pm.

#### **MOTION:**

Approving the recommended action.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Carr, Council Member
<b>SECONDER:</b>	Rene Spring, Council Member
<b>AYES:</b>	Tate, Constantine, Carr, Spring
<b>ABSENT:</b>	Jachimowicz

### **20. APPROPRIATE FUNDS FOR HIGH SPEED RAIL CONSULTANT AGREEMENTS**

Recommendation:

1. Adopt resolution approving an amendment to the City's Fiscal Year 2017-18 budget appropriating \$323,019 from the Long Range Planning Fund for expenses associated with the High Speed Rail Project; and
2. Direct staff to put on hold the contract with Urban Field Studios.

Item continued through the adoption of the agenda to the April 4, 2018 City Council meeting.

<b>RESULT:</b>	<b>NO ACTION TAKEN</b>
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## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

Council Member Spring requested that staff follow up with the residents in San Martin that were affected by the sewer spill that took place last winter.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:45 pm in honor of Griffin Nathaniel Robinett Jachimowicz.

## **MINUTES PREPARED BY:**

Michelle Bigelow, Deputy City Clerk

# **EXHIBIT L**



## CITY COUNCIL AGENDA REPORT

DATE: 11/18/2015

AGENDA OF: 11/24/2015

DEPARTMENT: City Council

SUBJECT: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

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**RECOMMENDATION:** Introduce for publication an ordinance adding to the Municipal Code Chapter 9.29, requiring that a gun located within a residence be stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice, and Chapter 9.30, requiring a gun owner to report the theft or loss of a firearm in his or her ownership or possession within 5 days of the time that he or she knew or reasonably should have known of such loss or theft.

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**BACKGROUND: Safe Storage Requirements:**

The presence of unlocked guns in the home increases the risk not only of unintentional gun injuries but of intentional shootings as well. In July 2004, the U.S. Secret Service and U.S. Department of Education published a study examining 37 school shootings from 1974-2000. That study found that in more than 65% of the cases, the attacker obtained the gun(s) from his or her own home or that of a relative.

According to the U.S. Centers of Disease Control and Prevention, between 1999 and 2010, over 8,300 people in the United States were reported as dying from unintentional shootings, including 2,383 children and young people ages 0-21. On average, over 16,000 individuals in the United States are treated each year in hospital emergency rooms for unintentional gunshot wounds,

Many unintentional child gun deaths could be prevented if guns were properly stored unloaded and locked with gun safety devices. One analysis completed by Everytown for Gun Safety in 2014 found that 70% of unintentional child deaths from firearms could have been prevented if the firearm had been stored locked or unloaded.

Researchers with the American Journal of Public Health have also shown that laws requiring use of gun locks are effective at preventing suicides and saving lives. States with a law in place that required handguns be locked at least in certain circumstances have 40% fewer suicides per capita and 68% fewer firearm suicides per capita than states without these laws.

Devices for locking firearms are widely available and generally come in two forms: gun locks and locking containers, such as gun safes. Both forms of gun safety devices usually require a key

or a combination to open, meaning that only the owner or an authorized user has direct access to the gun. It is also required in the state of California for gun dealers to provide gun locks when purchasing firearms, but state law does not require the use of gun locks.

The Santa Cruz Police Department has a supply of cable locks that are offered to the public at no charge. The free cable locks have been publicized over the past few years, and there has been a blog post on the Santa Cruz Police Department's blog about the free cable locks as recently as a few months ago.

#### Reporting of Stolen Weapons:

Federal and California laws currently require licensed firearms dealers, but not gun owners, to report the loss or theft of some or all firearms. Ten states (Connecticut, Delaware, Illinois, Maryland Massachusetts, Michigan, New Jersey, New York, Ohio, and Rhode Island), the District of Columbia, and a number of local jurisdictions impose this requirement on gun owners as well. Local governments in California with reporting laws include: Berkeley, Campbell, Los Angeles, Oakland, Oxnard, Sacramento, San Francisco, Simi Valley, Sunnyvale, Thousand Oaks, and West Hollywood.

Laws requiring the reporting of lost and stolen firearms is associated with a reduction in gun trafficking. A study by the bi-partisan coalition Mayors Against Illegal Guns in 2010 found that states without mandatory lost or stolen reporting laws export two and a half times more crime guns across state lines than jurisdictions with such laws. In a 2007 report, The International Association of Chiefs of Police states, "Law enforcement's early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence." The report recommends that state and local governments mandate reporting of lost or stolen firearms.

Laws requiring the reporting of lost or stolen guns deter gun trafficking (the diversion of firearms from the legal to illegal market) by providing law enforcement with indicators of trafficking and straw purchasing. When a gun is found at a crime scene and traced by law enforcement back to the original purchaser, that individual may falsely claim that the gun was lost or stolen to hide his or her involvement in trafficking. Reporting laws put law enforcement on notice of individuals who repeatedly: (1) fail to file reports yet claim that their guns were lost or stolen after they are recovered from a crime scene; or (2) report their guns lost or stolen, indicating that the person may be trafficking firearms.

Reporting laws also make gun owners more accountable for their weapons and make it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun thefts and losses also enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

The public overwhelmingly supports laws requiring the reporting of lost or stolen firearms. In 2011, the bi-partisan coalition of Mayors Against Illegal Guns conducted a poll hiring both Momentum Analysis, a polling firm with Democratic clients, and American Viewpoint, a polling firm with Republican clients. The results of the poll showed 94% of Americans surveyed favor laws to require the reporting of lost or stolen firearms.

**DISCUSSION:** Adding these new regulations to our City's municipal code is a common sense, practical, and proven way to help keep our community safer. Accordingly, the attached

ordinance, modeled after San Francisco's ordinance, has been drafted for Council consideration and adoption. This is a step forward in enhancing firearm safety and preventing both the accidental discharge of firearms, as well as intentional acts of violence using firearms.

FISCAL IMPACT: Approval of this recommendation has no fiscal impact.

Submitted by:  
Richelle Noroyan  
Councilmember

Submitted by:  
Pamela Comstock  
Councilmember

Submitted by:  
Cynthia Chase  
Councilmember

ATTACHMENTS:  
Ordinance

ORDINANCE NO. 2015-\_\_\_\_

AN ORDINANCE OF THE CITY OF SANTA CRUZ ADDING CHAPTERS 9.29 “SAFE FIREARM STORAGE” AND 9.30 “REPORTING LOST OR STOLEN FIREARMS” TO THE SANTA CRUZ MUNICIPAL CODE

THE CITY COUNCIL of the City of Santa Cruz does hereby find, determine and declare as follows:

**Safe Firearm Storage**

- A. Firearm injuries have a significant public health impact both nationally and locally, inasmuch as:
1. In the United States, firearm injuries accounted for 6.6 percent of premature deaths from 1999-2007. Shootings are a leading cause of injury deaths in the nation, second only to motor vehicle crashes. On average, there were 30,125 firearm deaths in the United States annually between 2000 and 2007, inclusive. In 2007, 31,224 Americans died in firearm-related homicides, suicides, and unintentional shootings – the equivalent of 85 deaths each day and more than three deaths each hour.
  2. Nationally, more than two thirds of homicides and over half of all suicides are committed with firearms.
  3. Unintentional shootings killed over 5,700 people in the U.S. between 2000 and 2007. In 2009, over 18,000 people were treated for unintentional gunshot wounds in the United States.
  4. The firearm-related homicide, suicide, and unintentional death rates for children 5-14 years old in the United States are significantly higher than those other industrialized nations.
- B. Having a loaded or unlocked firearm in the home is associated with an increased risk of firearm-related injury and death.
1. A firearm stored loaded or unlocked increases the risk of an accidental shooting.
  2. Numerous U.S. case control studies have found that people who die by suicide are more likely to have lived in a home with a firearm than similar people who did not die by suicide. Studies have also shown that the risk of suicide increases in homes where firearms are kept loaded or unlocked.
  3. A 2007 study compared the 40 million people who live in the states with the lowest firearm prevalence (Hawaii, Massachusetts, Rhode Island, New Hampshire, Connecticut, and New York) to about the same number living in the states with the highest firearm prevalence (Wyoming, South Dakota, Alaska, West Virginia, Montana, Arkansas, Mississippi, Iowa, North Dakota, Alabama,

Kentucky, Wisconsin, Louisiana, Tennessee, and Utah). Although non-firearm suicides were about equal in the two groups, total suicides were almost twice as high in the high-firearm states.

4. Keeping unsecured firearms in the home increases the flow of illegal firearms into the community. More than half a million firearms are stolen each year in the United States and many are subsequently sold illegally.
- C. Children are particularly at risk of injury and death, or causing injury and death, when they can access firearms in their own homes or homes that they visit.
1. The authors of a 2005 study found that an estimated 1.69 million children age 18 and under are living in households with loaded and unlocked firearms. Many young children, including children as young as three years old, are strong enough to fire a firearm.
  2. A significant majority of the firearms used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend. Of youths under 18 who died by firearm suicide, the vast majority used a family member's firearm, usually a parent's. And more than two thirds of school shooters obtained their firearm(s) from their own home or that of a relative.
  3. Quick access to loaded firearms heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the impulsive attempt will be fatal. One third of youths who died by suicide had faced a crisis within the previous 24 hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that fewer than five minutes had passed between deciding on suicide and making the attempt. While fewer than 10 percent of suicide attempts by other means are fatal, at least 85 percent of firearm suicide attempts end in death.
- D. Firearms kept in the home are most often used in suicides and against family and friends rather than in self-defense.
1. Firearms kept in a home are more likely to be involved in an unintentional shooting, criminal assault, or suicide attempt than to kill or injure in self-defense.
  2. Only one in ten firearm homicides in the shooter's home is considered justifiable, meaning the shooter was not the assailant. Of every ten firearm homicide victims killed at the shooter's residence, six were intimate partners or family members of the shooter, three were friends or acquaintances of the shooter, and only one was a stranger to the shooter.
- E. Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death.
1. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner's knowledge or permission. This simple measure significantly decreases the risk that the firearm will be used to



commit suicide, homicide, or inflict injury, whether intentionally or unintentionally.

2. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where firearms are stored.
- F. There is a wide consensus among medical professionals, police chiefs, gun control advocates and gun rights groups that applying trigger locks or using lock boxes to store unsupervised firearms in the home promotes health and safety.
1. The International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms.
  2. The American Academy of Pediatrics recommends that if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition.
  3. Both gun control and gun rights advocates endorse the use of locking devices when storing firearms to ensure that unauthorized or untrained persons cannot use the firearm to inflict injury or death. For example, the National Rifle Association's Home Firearm Safety Handbook, developed and used as part of the National Rifle Association (NRA) Basic Firearm Training Program, emphasizes that "there is one general rule that must be applied under all conditions: Store firearms so they are not accessible to untrained or unauthorized persons." The NRA Guide To The Basics Of Personal Protection In The Home further explains that "all storage methods designed to prevent unauthorized access utilize some sort locking method."
- G. Requiring unsupervised firearms stored to be secured with trigger locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home.
1. The locking requirements apply only to firearms that are not being carried. Firearm owners and adults over 18 may carry loaded and unlocked firearms in the home at any time. The safe storage requirements also permit owners who wish to do so to store their firearms fully loaded.
  2. Gun security does not preclude quick access. For example, affordable lockboxes using Simplex-type locks, which pop open immediately when several keys or pushbuttons are touched in a preset sequence, are widely available. Users report that they can retrieve a loaded weapon in just two to three seconds, and that the locks are also easy to open in the dark. The NRA describes this type lockbox as providing "a good combination of security and quick access." Some lockboxes also feature biometric locks, which provide immediate access when they scan the owner's fingerprint.
  3. Portable lockboxes can store loaded weapons such that they are always within easy reach on counters, tables or nightstands. Such safely stored weapons are

more quickly and easily retrieved for use in self-defense than unlocked guns that have been hidden away in seldom-used locations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

**Section 1.** Chapter 9.29 "Safe Firearm Storage" is hereby added to the Santa Cruz Municipal Code to read as follows:

"Chapter 9.29  
SAFE FIREARM STORAGE

9.29.010 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Firearm" shall have the same meaning as set forth in Section 9.26.020.
- (b) "Locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.
- (c) "Residence" means any structure intended or used for human habitation including but not limited to houses, condominiums, rooms, in law units, motels, hotels, SRO's, time-shares, recreational and other vehicles where human habitation occurs.
- (d) "Trigger lock" means a trigger lock that is listed in the California Department of Justice's list of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code Section 12088(d).

9.29.020 FIREARMS LOCATED IN A RESIDENCE TO BE KEPT IN A LOCKED CONTAINER OR DISABLED WITH A TRIGGER LOCK.

- (a) Prohibition. No person shall keep a firearm within a residence unless the firearm is stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice.
- (b) Exceptions. This Section shall not apply in the following circumstances:
  - (1) The firearm is lawfully carried on the person of an individual over the age of 18.
  - (2) The firearm is under the control of a person who is a peace officer under Penal Code Section 830.

9.29.030 PENALTIES

Any person or entity, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter, shall be guilty of an infraction for the first offense, or of a misdemeanor for any subsequent offense(s) occurring within the one year after the first offense. Upon conviction, the person convicted shall be punished in accordance with Chapter 1.08 of this code.”

**Section 2.** Chapter 9.30 “Reporting Lost or Stolen Firearms” is hereby added to the Santa Cruz Municipal Code to read as follows:

“Chapter 9.30  
REPORTING LOST OR STOLEN FIREARMS

Section 9.30.010 REPORTING LOST OR STOLEN FIREARMS.

(1) Any person that owns or is otherwise in possession of a firearm shall report the theft or loss of such firearm to the San Francisco Police Department within five calendar days of becoming aware of the theft or loss whenever: (a) the owner resides in the City of Santa Cruz; or (b) the theft or loss of the firearm occurs in the City of Santa Cruz.

(2) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms within five calendar days of when the owner or person in possession becomes aware or should have become aware of the theft or loss shall be punishable in accordance with Section 9.30.020

(3) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms in a timely manner shall create a rebuttable presumption that the owner or person remains in possession of the firearm.

(4) In order to encourage reports to law enforcement agencies of lost or stolen handguns pursuant to this Section, a person who files a report with a law enforcement agency notifying the agency that a handgun has been lost or stolen shall not be subject to prosecution for violation of Section 9.29.020, above.

Section 9.30.020 PENALTIES.

Any person violating any provision of this Chapter shall be guilty of a misdemeanor unless it is charged by the city attorney as an infraction and, upon conviction, shall be punishable in accordance with Section 4.04.010.”

**Section 3.** If any section or provision of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions and sections and the City Council hereby declares that it would have adopted the remaining provisions and sections irrespective of the fact that a provision or provisions or section or sections are declared invalid or unconstitutional.

**Section 4.** This Ordinance shall be in force and take effect thirty (30) days after final adoption.

PASSED FOR PUBLICATION this \_\_\_\_ day of \_\_\_\_\_, 2015 by the following vote:

AYES: Councilmember:

NOES: Councilmember:

ABSENT: Councilmember:

DISQUALIFIED: Councilmember:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

PASSED FOR FINAL ADOPTION this \_\_\_\_ day of \_\_\_\_\_, 2015 by the following vote:

AYES: Councilmember:

NOES: Councilmember:

ABSENT: Councilmember:

DISQUALIFIED: Councilmember:

APPROVED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

This is to certify that the above  
and foregoing document is the  
original of Ordinance No. 2015-\_\_\_\_\_  
and that it has been published or  
posted in accordance with the  
Charter of the City of Santa Cruz.

\_\_\_\_\_  
City Clerk

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Friday, November 20, 2015 4:14 PM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Friday, November 20, 2015 10:53 AM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Monty Matteson  
Phone: 831-234-1833  
Email: [admin@iconstitution.us](mailto:admin@iconstitution.us)  
Address: 7396 Highway 9  
City: Felton  
State: California  
Zip: 95018

Comment: This ordinance is redundant to state law that already exists. The community would be better served by the city council issuing policy to actually prosecute using the existing state law regarding negligent firearm storage instead of enacting redundant ordinances that will not be enforced and can not be enforced in a proactive manner. All reference for studies and statistics given for justification are anecdotal at best as no reference to the actual study's name or source is given for independent verification. This ordinance is at best simply a "political feel good" that has no benefit (admitted publicly by the author) other than to make criminals out of law abiding people who simply are trying to protect themselves and family from the out of control criminal element that has been perpetuated and allowed to get out of control by the very council who now seeks to address a non issue that is already covered by law. Question: was the person who unsafely stored their firearm in a manner that resulted in the death of a teen prosecuted under existing California law? Again, we need to actually enforce existing laws so we can properly evaluate their effectiveness before deciding we need more laws. Especially ones that require reporting a theft of a item that the voters of the state has now deemed only a ticket-able offense fro possession of the stolen. object

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Saturday, November 21, 2015 7:50 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Friday, November 20, 2015 10:11 PM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Tom Abbott  
Phone: 408-489-1389  
Email: [imaham@prodigy.net](mailto:imaham@prodigy.net)  
Address: P.O. Box 1702  
City: Aptos  
State: California  
Zip: 95062

Comment: The last thing that should be on the minds of the City Council is to be a shadow of the anti-gun San Francisco rhetoric. Every responsible gun owner I know is very cognizant of gun safety and responsible storage. In this town, which now runs amok with the criminal element basically doing what ever they want without any serious consequences, it is insane to expect responsible gun owners to have their firearms locked up when the crime is happening now and the police are 10 minutes away if they show up at all. This is not to say that people would keep them in the open where anyone could access them but to say that, again, a "responsible" owner will have firearms readily available but not necessarily locked up when they are most needed. For example, I live in the country, have already been robbed once and I have what I need readily available should the need arise. Without knowing where they are, no one would be able to easily find them. Everything else is locked up in a 400# electronic safe. We have no children nor do we often have visitors. Why should I have to comply with something like this where there is minimal if any risk? If this happens in the city you can bet it will be applied throughout the county. Likewise, any responsible gun owner is not going to hesitate to report a stolen gun. Criminals? Naw, I don't think they will be concerned with the law. They are having a heyday as it is. What you should be doing is address the criminal element that has pervaded the city and essentially have the free run to steal anything they choose and then, if they are even caught, expect to get a slap on the hand and be turned loose within hours. Start dealing with this issue in a hard core way and your fear of stolen guns will become a non issue for all practical purposes. We have a business in the city and I feel fully obligated to comment on this and voice strong opposition to yet another law which will be placed on the backs of all responsible gun owners and totally ignored, as usual, by the very people that it applies to.

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Saturday, November 21, 2015 7:51 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Friday, November 20, 2015 9:33 PM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Me  
Phone:  
Email:  
Address: Here  
City: Here duh  
State: California  
Zip: 95062

Comment: California is already so gnarly when it comes to gun laws its ridiculous. Last time I checked there wasn't a bunch of gun toting law abiding citizens going crazy or kids gettings there hands on them. Yes, those situations may happen, as do other tragedies, but do you want to know what the biggest problem is in Santa Cruz? The city is flooded with drugs and criminals of various degrees. Thus, our beautiful city is invaded by and exploited by these individuals. Don't even get me started on the polarized non-partisan shenanigans that goes on around here. Can we please start focusing on the bad guys and not me and my friends. Please? Okay? O and don't forget I live and vote here ;) no but seriously lets do something directed at the bad guys, k? Thanks! - me

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Sunday, November 22, 2015 7:33 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Sunday, November 22, 2015 7:26 AM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Greg Metz

Phone:

Email: [getmetz@sbcglobal.net](mailto:getmetz@sbcglobal.net)

Address: 231 Forest Ave.

City: Santa Cruz

State: California

Zip: 95062

Comment: I support this ordinance. Prevent child injury or deaths and teen suicide risk.



## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Sunday, November 22, 2015 7:38 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

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**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Saturday, November 21, 2015 5:56 PM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

**change.org** New signatures

**Santa Cruz City Council** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.

Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer

Petition by Kathryn Sidell, MD · 10 supporters



**10 more people signed  
in the last 7 hours**

[View petition activity](#)

### RECENT SUPPORTERS



**Peggy Moore**

Sequel, CA · Nov 21, 2015

We need better gun management



**Kerrie Pipal**

Scotts Valley, CA · Nov 21, 2015

I support common sense gun laws.



**benoit pelczar**

Santa Cruz, CA · Nov 22, 2015



**Katie Cox**

Santa Cruz, CA · Nov 22, 2015



**Shanna Kiesz**

Santa Cruz, CA · Nov 21, 2015

[View all 10 supporters](#)

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This notification was sent to [citycouncil@cityofsantacruz.com](mailto:citycouncil@cityofsantacruz.com), the address listed as the decision maker contact by the petition starter. If this is incorrect, please [post a response](#) to let the petition starter know.

Change.org · 548 Market St #29993, San Francisco, CA 94104-5401, USA

## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Sunday, November 22, 2015 7:40 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley  
**Subject:** FW: I support proposed gun safety measures

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**From:** Connie [mailto:conniemmm@pacbell.net]  
**Sent:** Saturday, November 21, 2015 2:55 PM  
**To:** City Council  
**Subject:** I support proposed gun safety measures

Dear Santa Cruz City Council,

I am writing in support of the gun safety measure proposed by councilwoman Richelle Noroyan. The proposal, which would require that a gun located in a residence be locked or disabled and that a stolen gun be reported within 5 days seem like logical safety measures. If we can prevent tragedy because of an unlocked gun falling into the hands of someone such as a child or a criminal, then it is worth it.

I am frankly shocked by the folks who are against this proposal. We've had far too much gun violence in this country and we must do something to try to prevent future violence. This seems like a simple way to potentially help the situation.

Sincerely,

Connie Maschan  
Santa Cruz

## Rosemary Balsley

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Sunday, November 22, 2015 7:44 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

---

**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Saturday, November 21, 2015 8:05 AM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

**change.org** New signatures

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Petition by Kathrin Sidel, MD · 10 supporters



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### RECENT SUPPORTERS



**martina nicholson**

Sequel, GA · Nov 21, 2015

totally agree with the safety features



**Kem Akol**

Santa Cruz, CA · Nov 21, 2015

too many guns!



**Laura Rockow**

Scotts Valley, CA · Nov 21, 2015

This is a small thing to implement for greater safety!



**Moira Spierings**

Australia · Nov 21, 2015

I want my grandchildren to be safe in their community.



**Renee Norlin**

Riverside, CA · Nov 21, 2015

I agree!

**[View all 10 supporters](#)**

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Change.org · 548 Market St #29993, San Francisco, CA 94104-5401, USA

## Rosemary Balsley

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Sunday, November 22, 2015 7:42 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

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**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Saturday, November 21, 2015 11:29 AM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

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Petition by Kathrin Sideli, MD · 10 supporters



**10 more people signed  
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### RECENT SUPPORTERS



**Miller Ellen J**

Santa Cruz, CA · Nov 21, 2015

I believe we must push back against those who have no regard for innocent lives.



**Renee Inlow**

Santa Cruz, CA · Nov 21, 2015

I want stronger gun laws.



**Leanne Mackenzie**

Mountain View, CA · Nov 21, 2015



**Sabrina Michaelis**

Santa Cruz, CA · Nov 21, 2015



**Concerned Citizen**

New City, NY · Nov 21, 2015

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Change.org · 548 Market St #29983, San Francisco, CA 94104-8401, USA

## Rosemary Balsley

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 8:49 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

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**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Sunday, November 22, 2015 6:51 PM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

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New signatures

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Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer

Petition by Kathrin Sidell, MD - 10 supporters



**10 more people signed  
in the last 10 hours**

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### RECENT SUPPORTERS



**K Salisbury**

Santa Cruz, CA · Nov 23, 2015

The only safe guns, are locked guns.





**Patricia Martin**

Santa Cruz, CA · Nov 22, 2015

I want my community to be as safe as possible, and this doesn't take away any reasonable rights from those that have guns.



**Clarkie CLARK**

Bend, OR · Nov 23, 2015



**Holly Sowersby**

Santa Cruz, CA · Nov 23, 2015



**Sumita Jaggar**

Santa Cruz, CA · Nov 22, 2015

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Change.org · 648 Market St #29933, San Francisco, CA 94104-5401, USA

## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 8:52 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

---

**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Sunday, November 22, 2015 9:23 AM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

**change.org**      New signatures

**Santa Cruz City Council** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.

Santa Cruz City Council, citycouncil@cityofsanta cruz.com:  
Make Santa Cruz Safer

Petition by Kathrin Sidell, MD - 10 supporters



**10 more people signed  
in the last day**

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### RECENT SUPPORTERS



**Heidi Boynton**

Santa Cruz, CA - Nov 22, 2015



**Michelle Katsky**

Scotts Valley, CA - Nov 22, 2015



**C Cruz**

Santa Cruz, CA · Nov 22, 2015



**Gabriela Santos**

Santa Cruz, CA · Nov 22, 2015



**Karin Fiorenza**

Santa Cruz, CA · Nov 22, 2015

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Change.org · 548 Market St #29993, San Francisco, CA 94104-5401, USA

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 8:53 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Sunday, November 22, 2015 8:50 AM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Maggie Duncan-Merrell  
Phone: 8314273122  
Email: [maggiemerrell@gmail.com](mailto:maggiemerrell@gmail.com)  
Address: 611 Miramar Dr  
City: Santa Cruz  
State: California  
Zip: 95060

Comment: To whom it may concern on the Santa Cruz City Council- I am writing today in support of Council Member, Richelle Noroyan's proposal on sane gun regulation. Purchasing or owning a fire arm should come with a higher level of required safety mechanisms in place. Requiring a gun owner to report a lost or stolen weapon is common sense regulation and if one fails to do so, the gun owner has technically armed a criminal and needs to do their duty as a responsible citizen and report that lost weapon to the police . If that gun is used by someone who can't legally obtain a fire arm, than that gun owner who failed to report the missing weapon has contributed to arming someone our laws have deemed unable to responsibly own an item specifically designed for killing. I also support an ordinance requiring gun owners to lock their fire arms when not in use is yet another common sense requirement. Children should not have access to fire arms and locking them away achieves that goal. If someone wants to own a killing machine, than that person needs to take additional precautions to make sure lives aren't lost due to negligence. This requirement makes sense and I support it wholeheartedly. Please vote in support of this ordinance and in support of safety. Than you to Richelle Noroyan for the proposed ordinance and thanks in advance to those who vote in favor of it. Sincerely, Maggie Duncan-Merrell

## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 1:55 PM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Monday, November 23, 2015 12:57 PM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Ray Chapman  
Phone: 8313346903  
Email: [raychapman@gmail.com](mailto:raychapman@gmail.com)  
Address: 1007 Fair Ave  
City: Santa Cruz  
State: California  
Zip: 95060

Comment: The questionable reasons given for having even more laws like those proposed that create criminals out of law abiding citizens are both false and misleading. Given the biased sources, that is not surprising. In Japan, where guns are pretty much completely banned, suicide is twice that of the US. Guns don't cause suicide, but mental health issues do. The proposal's facts about children and guns are skewed as well. 2013 Center for Disease Control from the current Obama administration, says the proper definition of 'child' is a person between birth and puberty (typically 13-14 years old) and in 2013 only 1 child was killed on an average day nationwide, or about 0.02 children per state per day. 411 children (age 14 and under) died from gunfire in all of 2012 or slightly more than one per day. This includes homicides, accidents, and suicides combined. The accidental rate is about 44 deaths, for children under 10. According to the CDC, over half of all homicides of victims aged 15-19 are gang-related. The same study found that gang-related homicides are more likely to involve firearms than those that are not. Unintentional vehicle deaths, falling deaths, and pedestrian deaths; all have much higher rates than those of firearms, so why do the council members suddenly claim it be so urgent and foremost? How about these gun locks? Most gun locks tested could be opened without the key. Children can open locks with paper clips, a pair of scissors or tweezers, or you could whack them on the table and they would open. In 1996, before laws requiring trigger locks and when there were around 80 million people who owned a firearm, there were only 44 accidental gun deaths for children under age 10, or about 0.0001%. California has a trigger lock law and saw a 12% increase in fatal firearm accidents in 1994. Texas didn't have one and experienced a 28% decrease in the same year. If criminals are deterred from attacking victims because of the fear that people might be able to defend themselves, gun locks may in turn reduce the danger to criminals committing crime, and thus increase crime. The notion that gun locks will prevent gun theft, is just plain wrong. A thief breaking into your locked door or window, will not be deterred by a easily picked lock. Firearms in private hands are used an estimated 2.5 million times each year to prevent crimes; including rapes, deadly assaults, and kidnapping. The number of innocent children protected by firearm owners far outweighs the

number of children harmed. Gun storage should have the safety of children as a priority, and California law already requires that firearms are locked up when there is a possibility of children being present. All of the gun owners I have spoken to in our city, already do keep firearms inaccessible when not at home, and it is only when they are home that firearms are made accessible. New laws like those proposed, only serve to punishing law abiding citizens, who should be the ones deciding what guns are locked up and which guns are readily available for home protection.

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 2:12 PM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley  
**Subject:** FW: Gun Safety Ordinance

-----Original Message-----

**From:** Stephanie Culligan [mailto:stephanieculligan@gmail.com]  
**Sent:** Monday, November 23, 2015 2:00 PM  
**To:** City Council  
**Cc:** Kevin Vogel  
**Subject:** Gun Safety Ordinance

Several years ago, I was harassed by a very unhinged man who thought he was Daniel from the Bible. He assaulted me at work, ran my car off the road, made scenes in public places, and hid in the bushes outside my front door waiting for me to come home. He claimed to hear voices from God and threatened to kill me and himself.

When I hid out at a friend's house for two weeks to avoid him, he broke into and vandalized my home, taking many of my personal items.

During all of this, I tried to protect myself. I filed a restraining order, and made repeat calls to local law enforcement, but I quickly learned that they could never be present to protect me when this man decided to harm or harass me- they could only take a report after the fact.

I took self-defense classes but realized that I could not become adept at Karate quickly enough to be able to stand against him.

I purchased mace spray on a keychain. Unfortunately, it went off while hanging from my car ignition- while my baby was strapped in the back seat of the vehicle!

I was a single parent and knew I still needed some way to defend myself and protect my child, so I decided to take lessons from a retired police officer in how to safely use a handgun. I practiced with him at a range, took the handgun safety certification, and now have a gun which I keep safely stored in my home. I continue to take lessons when I can to make sure I can manage my weapon as safely as possible.

Under the proposed gun safety ordinance, if my stalker had found and stolen my gun when he broke into my home, I would have returned home too late to report the theft in the 5-day window. On top of being stalked, assaulted, and terrorized, I would now be guilty of a crime.

Although perhaps well-intended, this ordinance is a slap in the face to victims of crime. While penalties become more lax for those who commit crimes, ordinances like this are proposed that punish the innocent

who are simply trying to stay safe. We need ways to hold the ACTUAL CRIMINALS responsible for their actions- not blaming the innocent, and adding more anguish to someone who has already been a victim of crime.

Please reconsider this ordinance that not only fails to provide any deterrent to crime, but actually punishes law-abiding citizens.

Sincerely,  
Stephanie Culligan



## **Rosemary Balsley**

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 4:17 PM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: SMALL STEPS TOWARDS GUN SAFETY MEASURES

-----Original Message-----

**From:** Jan Garrison [mailto:jangarrison1938@gmail.com]  
**Sent:** Monday, November 23, 2015 3:27 PM  
**To:** City Council  
**Subject:** SMALL STEPS TOWARDS GUN SAFETY MEASURES

Dear Santa Cruz City Council Members:

My family and I applaud the small steps towards gun safety measures which City Council member, Richelle Noroyan is proposing to present to the City Council members and the public this week. We urge approval that gun owners report any lost or stolen firearms within five days, and to keep their guns disabled or locked up when at home. This seems such a fair and simple request considering the dreadful consequences of accidental and public gun deaths in the U.S. - 33,000 to 34,000 annually.

Thank you, Ms. Noyoyan, for having the courage to bring this subject before the council and the public.

Sincerely, Jan Garrison

## Rosemary Balsley

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Monday, November 23, 2015 4:17 PM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Letter in Support of Firearms Ordinance - Item #20 on 11/24/15 Agenda  
**Attachments:** Santa Cruz safe storage and lost stolen support Law Center 2015.pdf

---

**From:** Allison Anderman [mailto:aanderman@smartgunlaws.org]  
**Sent:** Monday, November 23, 2015 3:26 PM  
**To:** City Council  
**Cc:** Richelle Noroyan  
**Subject:** Letter in Support of Firearms Ordinance - Item #20 on 11/24/15 Agenda

Dear Members of the Santa Cruz City Council,

A letter supporting the proposed ordinance to require gun owners to safely store their firearms in residences, and report the loss or theft of a firearm, is attached to this email.

Thank you,

Allison Anderman

--

Allison Anderman | Staff Attorney  
Law Center to Prevent Gun Violence  
415-433-2062, ext. 311  
smartgunlaws.org  
[@smartgunlaws](mailto:@smartgunlaws)

*Nothing contained in this communication is intended as legal advice to any person or entity and should not be regarded as such. The Law Center to Prevent Gun Violence and its attorneys provide general information about gun laws to interested groups, individuals and legislators. Law Center attorneys do not represent clients and do not form attorney-client relationships. You should not consider communications with the Law Center or its attorneys to be confidential unless we have agreed to such confidentiality.*



# LAW CENTER TO PREVENT GUN VIOLENCE

BECAUSE SMART GUN LAWS SAVE LIVES

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November 23, 2015

Santa Cruz City Council  
809 Center St  
Santa Cruz, CA 95060

Transmitted by email to [citycouncil@cityofsantacruz.com](mailto:citycouncil@cityofsantacruz.com)

Re: Support for Ordinance Requiring Safe Storage of Firearms and Reporting of  
Lost/Stolen Firearms

Dear City Council Members,

On behalf of the Law Center to Prevent Gun Violence ("the Law Center"), I write to express our strong support for the proposed ordinance to require the safe storage of firearms and the reporting of lost or stolen firearms ("the Proposed Ordinance"). Founded by lawyers after an assault weapon massacre at a San Francisco law firm in 1993, the Law Center provides legal expertise in support of gun violence prevention to federal, state, and local legislators nationwide.

**Safe storage ordinances are common-sense measures to address very real risks.** As indicated in the findings to the Proposed Ordinance, unsecured firearms are directly associated with accidental shootings and suicides by young people, and with illegal trafficking of stolen firearms. They also are the overwhelming source of guns used in school shootings.

The Proposed Ordinance would require firearms located in a residence to be stored in a locked container or disabled with a trigger lock unless they are being carried (or are under the control of a peace officer). These requirements will help ensure that firearms in the home are inaccessible to minors and other unauthorized users. Safe storage laws have been adopted by the State of Massachusetts, as well as California cities such as San Francisco, Sunnyvale, and Los Angeles. The following New York cities and county have also adopted safe storage ordinances: New York City, Albany, Rochester, Buffalo and Westchester County.

**Laws requiring gun owners to report the loss or theft of a firearm are associated with a reduction in gun trafficking.<sup>i</sup>** These laws prevent an individual whose gun is found at a crime scene and traced to him or her by law enforcement, from falsely claiming that the gun was lost or stolen to hide his or her involvement in trafficking. Reporting laws also make gun owners more accountable for their weapons and make it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun losses and thefts also enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

The Proposed Ordinance would require gun owners to report the loss or theft of a firearm within five calendar days of when the owner became aware, or should have become aware, that the firearm was lost or stolen. At least twelve cities and counties in California have lost or stolen reporting laws, including Oakland, Berkeley, Simi Valley, Oxnard and Thousand Oaks. Eleven states and the District of Columbia also have mandatory lost or



## LAW CENTER TO PREVENT GUN VIOLENCE

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stolen reporting laws.<sup>ii</sup> These laws are overwhelmingly supported by the American public. A nationwide poll in 2011 found that 94% of Americans surveyed favor laws to require the reporting of lost or stolen firearms.<sup>iii</sup>

**The Proposed Ordinance is Consistent with the Second Amendment.** Opponents of laws requiring the safe storage of firearms claim that such laws violate the Second Amendment. This claim, however, ignores the scope of the right articulated by the U.S. Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and has been repeatedly rejected by the courts.

In *Heller*, the Supreme Court held that the Second Amendment protects a law-abiding, responsible citizen's right to possess an operable handgun in the home for self-defense. The Court struck down a District of Columbia ordinance that "totally ban[ne]d handgun possession in the home" and required "that any lawful firearm in the home be disassembled or bound by a trigger lock at all times."<sup>iv</sup> The Court found the ordinance unconstitutional precisely because it made it "impossible for citizens to use [firearms] for the core lawful purpose of self-defense."<sup>v</sup> But the Court was careful to restrict its ruling to the unduly broad prohibition at issue, specifically stating that its holding was not intended to "suggest the invalidity of laws regulating the storage of firearms to prevent accidents."

Following *Heller*, several jurisdictions' safe storage laws were upheld by reviewing courts because, unlike the law at issue in the District, they do not prohibit a gun owner from possessing a functional firearm in the home for self-defense. Furthermore, courts have held that safe storage laws do not impose an impermissible burden on an individual's exercise of his or her Second Amendment rights because a safely stored firearm can be accessed in a matter of seconds.

Significantly, in March of last year, the Ninth Circuit Court of Appeals rejected a Second Amendment challenge to San Francisco's safe storage law, *Jackson v. City and County of San Francisco*, 746 F.3d 953 (9th Cir. 2014). The Court found that the law imposed only a minimal burden on the right to self-defense in the home because it allowed the owner to carry a loaded firearm on his or her body and caused a delay of only a few seconds while a firearm is unlocked or retrieved from storage. This June, the U.S. Supreme Court refused to review that decision.<sup>vi</sup>

Finally, laws requiring people to report the loss or theft of a firearm do not implicate—much less burden—a person's ability to possess a handgun in the home for self-defense which, as discussed in *Heller*, is the right protected by the Second Amendment. Accordingly, these laws are outside of the scope of the Second Amendment entirely.

We urge you to adopt this important piece of gun violence prevention legislation.

Sincerely,

Allison Anderman  
Staff Attorney



<sup>i</sup> One study found that states without mandatory lost or stolen reporting laws export two and a half times more crime guns across state lines than jurisdictions with such laws. A crime gun is “exported” from one state to another if it was sold to a retail consumer in one state and then recovered after being used in a crime in a different state. Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* 22-23 (September 2010), at <http://www.tracetheguns.org/report.pdf>.

<sup>ii</sup> See a list of the eleven states at <http://smartgunlaws.org/reporting-lost-or-stolen-firearms-policy-summary/>.

<sup>iii</sup> American Viewpoint and Momentum Analysis for Mayors Against Illegal Guns, *Results From A National Survey Of 1003 Registered Voters* (January 2011), at [http://gunvictimsaction.org/wp-content/uploads/2011/01/MAIG\\_poll\\_presentation\\_1\\_18\\_11.pdf](http://gunvictimsaction.org/wp-content/uploads/2011/01/MAIG_poll_presentation_1_18_11.pdf). See also Mayors Against Illegal Guns, *New Polls In Five Bellwether States Show Overwhelming Support To Fix Gun Background Check System* (March 2011), (showing similar results from polls in five bellwether states – Arizona, Colorado, Indiana, Ohio and Virginia); Mayors Against Illegal Guns, *Gun Owners Poll* (July 2012), at <http://www.joycefdn.org/assets/1/7/MAIGpoll072012.pdf> (showing that 68% of gun owners support lost and stolen reporting laws).

<sup>iv</sup> 554 U.S. at 628 (emphasis added).

<sup>v</sup> *Id.* at 630 (emphasis added).

<sup>vi</sup> *Jackson v. City and County of San Francisco*, 135 S. Ct. 2799 (June 8, 2015).

## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Tuesday, November 24, 2015 7:56 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

---

**From:** mail@changemail.org [mailto:mail@changemail.org]  
**Sent:** Tuesday, November 24, 2015 1:30 AM  
**To:** City Council  
**Subject:** 10 more people signed "Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer"

**change.org**

New signatures

**Santa Cruz City Council** – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign's supporters.

Santa Cruz City Council, citycouncil@cityofsanta cruz.com: Make Santa Cruz Safer

Petition by Kathryn Sidell, MD · 10 supporters



**10 more people signed  
in the last 2 days**

[View petition activity](#)

### RECENT SUPPORTERS



**Rod Mortensen**

Santa Cruz, CA · Nov 23, 2015

This is only common sense.



**Colleen Silva**

santa clara,, CA · Nov 24, 2015



**Victoria stone**

Santa Cruz, CA · Nov 24, 2015



**Michelle Santos**

Santa Cruz, CA · Nov 24, 2015



**Christine Mantua**

Santa Cruz, CA · Nov 24, 2015

**[View all 10 supporters](#)**

CHANGE.ORG FOR DECISION MAKERS

On Change.org, decision makers like you connect directly with people around the world to resolve issues. Respond to let the people petitioning you know you're listening, say whether you agree with their call to action, or ask them for more information. [Learn more.](#)

This notification was sent to [citycouncil@cityofsantaacruz.com](mailto:citycouncil@cityofsantaacruz.com), the address listed as the decision maker contact by the petition starter. If this is incorrect, please [post a response](#) to let the petition starter know.

Change.org · 545 Market St #29993, San Francisco, CA 94104-5401, USA

## Rosemary Balsley

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Tuesday, November 24, 2015 7:57 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Monday, November 23, 2015 8:24 PM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Matthew I. Snow  
Phone: 831-338-3093  
Email: [mattsnow@gmail.com](mailto:mattsnow@gmail.com)  
Address: 134 Cypress Tree Lane  
City: Boulder Creek  
State: California  
Zip: 95006

Comment: This ordinance creates new crimes against otherwise lawful citizens. This law is unenforceable as a means of preventing firearm related crimes. This law does not promote actual firearm safety through education from industry leaders such as Project Child Safe, NSSF, or the NRA. You'll probably pass this bill regardless of opposition or rational thought, so you're getting a short, restrained answer from an upset lifelong resident. You are not doing anything meaningful with this ordinance. There is no means of accurately measuring results of this law. Therefore it is just another useless law that will not actually do anything except threaten and punish citizens.



## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Tuesday, November 24, 2015 8:53 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Support for Richelle

-----Original Message-----

**From:** reginanysc@gmail.com [mailto:reginanysc@gmail.com]  
**Sent:** Tuesday, November 24, 2015 8:04 AM  
**To:** City Council  
**Subject:** Support for Richelle

Dear City Council,

I am writing to you on behalf of the safety of my family and our community.  
I hope you will pass Richelle's proposal to keep guns locked away, and to report stolen guns when discovered they are missing immediately.

To date in 2015 - 632 children under the age of 11 were accidentally killed/injured by a loaded hand gun left in the home.

If the gun enthusiasts have a problem with being a responsible gun owner... Perhaps they have something to hide?

I have heard the argument that the gun owner is not aware their gun is taken immediately... Really??  
Do you check your car, business or home front door to make sure it is locked!

Thank you Richelle for bringing this important and life saving proposal to City Council.  
It's a step in the right direction to keep us ALL safe.

Thank you City Council for your time and commitment to our community

Regina Henderson

Sent from my iPhone

## **Rosemary Balsley**

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**From:** Bren Lehr on behalf of City Council  
**Sent:** Tuesday, November 24, 2015 11:41 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Tuesday, November 24, 2015 11:38 AM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Angela Dysle  
Phone:  
Email: [Ladydysle2155@aol.com](mailto:Ladydysle2155@aol.com)  
Address: 4300 Soquel Dr.  
City: Soquel  
State: California  
Zip: 95073

Comment: I am a gun owner and I am responsible with my gun. I oppose all of these ordinances because the state already has all the rules and regulations that we need. The only thing that will get accomplished with these new ordinances is responsible gun owners will now have less rights than a criminal that is not going to follow any of these laws.

## **Rosemary Balsley**

---

**From:** Bren Lehr on behalf of City Council  
**Sent:** Tuesday, November 24, 2015 11:41 AM  
**To:** Cynthia Chase; Cynthia Mathews; David Terrazas; Don Lane; Micah Posner; Pamela Comstock; Richelle Noroyan  
**Cc:** Tina Shull; Martin Bernal; Scott Collins; Rosemary Balsley; Kevin Vogel  
**Subject:** FW: Agenda Comment for Meeting Date 11/24/2015

**From:** NoReplyMailbox@cityofsantacruz.com [mailto:NoReplyMailbox@cityofsantacruz.com]  
**Sent:** Tuesday, November 24, 2015 11:38 AM  
**To:** City Council  
**Subject:** Agenda Comment for Meeting Date 11/24/2015

The following information was received for CITY COUNCIL AGENDA 11/24/2015

Agenda Item: Ordinance Related to Firearms: Lost or Stolen Firearms and Safe Storage Requirements (CN)

Name: Angela Dysle  
Phone:  
Email: [Ladydysle2155@aol.com](mailto:Ladydysle2155@aol.com)  
Address: 4300 Soquel Dr.  
City: Soquel  
State: California  
Zip: 95073

Comment: I am a gun owner and I am responsible with my gun. I oppose all of these ordinances because the state already has all the rules and regulations that we need. The only thing that will get accomplished with these new ordinances is responsible gun owners will now have less rights than a criminal that is not going to follow any of these laws.

**Address to the Santa Cruz City Council by Samuel Wesson on November 27, 2015**

Ladies and gentlemen, I am here tonight to address the article published in the Santa Cruz Sentinel titled **Firearms, Santa Cruz City Council to Weigh New Gun Safety Laws**. In this article councilwoman, Richelle Noroyan indicated that she wanted the city council to create more sensible gun safety laws, although she admits that Santa Cruz has a lot of gun safety laws on the books already. Along with all the current state laws, what criminal has ever worried about a city or state gun law?

I challenge her perspective on the matter of needing new gun safety laws. Santa Cruz has NEVER had a gun problem in its history, only problem criminals. In fact, when I was in Santa Cruz High School we had a Junior Rifle Club, and we took our rifles to school on days that we practiced. I got my high school block letter with a rifle crossing it, much as any other sport members got their block letters. The rifle club was not exclusively men either. In 1954 there were 5 women and 12 men; in 1956, there were 5 women and 6 men; in 1961 there were 8 women and 15 men, and in 1969 there was no club, likely due to anti-war activities.

The range that we practiced in, was directly below YOUR FEET council members, it was the old Santa Cruz Police range. I can even remember occasional complaints from the council about the shooting noise.

New proposed laws are, or would be nothing but FEEL GOOD attempts to create more controls on guns due to ignorance about guns. They are a carefully concealed fascist method of the eventual complete banning of privately owned guns. People normally report burglary and theft of any items to the police, so how is a specific law about guns going to make the gun or people safer? You cannot LAW people into compliance, only EDUCATE!

If you intend to control the gun owning public by basically outlawing them, then your next step should be to outlaw books about guns, so the public won't learn and want to have them. The public library already no longer carries the American Rifleman magazine in their magazine selections. One of the previous city councils tore down a very popular target shooting range in De Laveaga Park, where many local citizens learned gun safety and the satisfaction in proficient target shooting.

Ignorance about guns by city officials is no excuse for tyranny. Thank you.

# Gun Safety Proposals

- 1) Requires that a firearm located within a residence be stored in a locked container or disabled with a trigger lock unless carried on your person
- 2) Requires a gun owner to report the theft or loss of a firearm in his or her ownership or possession within 5 days of the time he or she knew or reasonably should have known of such loss or theft

# Why these Proposals? Why Now?

- Firearms pose a significant public health impact both nationally and locally
  - On average, there were **30,125** firearm deaths in the US annually between 2000-2007
  - Shootings are the leading cause of injury death in the nation second only to motor vehicle crashes
  - In 2007, **31,224** Americans died in firearm-related homicides, suicides, and unintentional shootings – the equivalent of 85 deaths each day and more than three deaths per hour

# Safe Storage Requirement

- Applying trigger locks or using lock boxes when storing firearms in the home prevents deaths and injuries from firearms

- An analysis by Everytown for Gun Safety in 2014 found 70% of unintentional child deaths from firearms could have been prevented if stored in a locked containers

- Alarming Statistics

- On average, over 16,000 people in the U.S. are treated each year in hospital emergency rooms for unintentional gun shot wounds
- In 2014, a teenager from Watsonville was killed in a home across the street from the SCPD when visiting a friend who found a loaded and unlocked weapon in the home
- Researchers with the American Journal of Public Health have shown that states with a law in place that require handguns be locked at least in certain circumstances have 40% fewer suicides per capita and 68% fewer firearm suicides per capita than states without these laws.

# Safe Storage Laws are Supported by the Public

Americans strongly support laws requiring the safe storage of firearms. In 2013 a national survey conducted by the New England Journal of Medicine found that 67% of respondents support laws requiring owners to lock up loaded weapons in the home



# Trigger Locks & Locked Containers

- Devices for locking firearms are widely available and generally come in two forms: gun locks and locking containers, such as gun safes.
- Both forms of gun safety devices usually require a key or a combination to open, meaning that only the owner or an authorized user has direct access to the gun.
- It is required in the state of California for gun dealers to provide gun locks when an individual purchases firearms, but state law does not require the use of those gun locks.
- The Santa Cruz Police Department has a supply of cable locks that are offered free of charge to the public.

# Reporting Lost or Stolen Firearms

- Federal and California laws require licensed firearm dealers, but not gun owners to report lost or stolen firearms
- Ten states, the District of Columbia and 11 local governments in California have reporting laws.
  - The ten states include Connecticut, Delaware, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, and Rhode Island
  - California communities include Berkeley, Campbell, LA, Oakland, Oxnard, Sacramento, San Francisco, Simi Valley, Sunnyvale, Thousand Oaks and West Hollywood.

# Reporting Laws help Law Enforcement & Deter Gun Trafficking

- Reporting laws make it easier for law enforcement to locate a lost or stolen firearm
- Timely reporting of gun thefts also enable police to trace guns more effectively and makes the successful prosecution of users of stolen guns more likely
- A study by the bi-partisan coalition of Mayors Against Illegal Guns in 2010 found that states without mandatory reporting laws export two and a half more crime guns across state lines

# Reporting Laws are Supported by the Public

- In 2011, the bi-partisan coalition of Mayors Against Illegal Guns conducted a poll hiring both a polling firm used by Democratic Party clients and a polling firm used by Republican Party clients.
- The results of the poll showed 94% of Americans surveyed favor laws requiring the reporting of lost or stolen firearms

# **EXHIBIT M**

**SEC. 55.12. DUTY TO REPORT THEFT OR LOSS OF FIREARMS; EXEMPTIONS.****(Added by Ord. No. 178,010, Eff. 12/3/06.)**

A. Any person who owns or possesses a firearm (as defined in Penal Code Section 12001(b) or as amended) shall report the theft or loss of the firearm to the Los Angeles Police Department within 48 hours of becoming aware of the theft or loss, whenever: (1) the person resides in the City of Los Angeles; or (2) the theft or loss of the firearm occurs in the City of Los Angeles.

B. Any person who has experienced the theft or loss of a firearm within the five years prior to the effective date of this ordinance without the firearm having been recovered during that period, and who otherwise meets the reporting requirements in Section A. above, is required to report the loss or theft of the firearm to the Los Angeles Police Department within 60 days of the effective date of this ordinance.

C. Any person who fails to report the theft or loss of a firearm as required in Subsections A. or B., when the person knew or should have known of the theft or loss, shall be guilty of a misdemeanor.

D. Persons licensed to sell or manufacture firearms pursuant to Penal Code Sections 12071 or 12086 are exempt from this section, if the firearm lost or stolen was business merchandise, was lost or stolen from their firearm-related business, or was in their possession pursuant to Penal Code Section 12082.

E. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

# **EXHIBIT N**

9.36.131 - Theft or loss of firearms—Reporting of stolen and/or lost firearms required.

- A. Any person owning a firearm or in possession of a firearm is required to report the theft or loss of such firearm to the Oakland Police Department when:
  - 1. Owner resides in Oakland, AND/OR
  - 2. The theft or loss of the firearm occurs in Oakland.
- B. A person subject to the reporting requirements in Subsection A. is required to report the theft or loss of a firearm within 48 hours of when he or she knew or reasonably should have known that the firearm was stolen or lost.
- C. A person who has experienced the theft or loss of a firearm between August 1, 1992 and July 30, 2002 and who otherwise meets the reporting requirements in subsection A is required to report the loss or theft of such firearm to the Oakland Police Department within sixty (60) days of the effective date of the Amendment under which this new section was adopted.

(Ord. No. 12996, 2-16-2010; Ord. 12529 § 1 (part), 2003)



# **EXHIBIT O**

**SEC. 7-141.1. REPORTING LOST OR STOLEN FIREARMS.**

(A) Any person residing or doing business in the city who owns or possesses a firearm, as defined in the California Penal Code, shall report the theft or loss of the firearm to the police department within 72 hours after his or her discovery or knowledge of the theft or loss.

(B) Any person residing or doing business in the city who has experienced the loss or theft of a firearm, as defined in the California Penal Code, in the city within the five years prior to November 23, 2007, without the firearm having been recovered during such time, shall report the theft or loss to the police department within 90 days of November 23, 2007.

(Ord. No. 2757)

# **EXHIBIT P**

**3914.10 - Reporting lost or stolen firearms.**

Any person residing or doing business in Port Hueneme who owns, or possesses a firearm, as defined in the Penal Code, shall report the theft or loss of the firearm, if it is lost or stolen on or after September 8, 2007 to the Port Hueneme Police Department within forty-eight (48) hours after his or her discovery or knowledge of the theft or loss. Any person residing or doing business in Port Hueneme who has experienced the loss or theft of a firearm, as defined in the Penal Code, in Port Hueneme within the five (5) years prior to September 8, 2007 without the firearm having been recovered during such time, shall report the theft or loss to the Port Hueneme Police Department within ninety (90) days of September 8, 2007.

(Ord. 678 § 1 (part), 2007)

# **EXHIBIT Q**

## Sacramento City Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 9 PUBLIC PEACE, MORALS AND WELFARE](#)[Chapter 9.32 WEAPONS AND EXPLOSIVES](#)[Article I. In General](#)**9.32.180 Reporting of stolen or lost firearms required.**

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It is unlawful for any person who owns or possesses a firearm to knowingly or negligently fail to report the theft or loss of such firearm to the Sacramento police department within forty-eight (48) hours of the time he or she knew or should have known the firearm has been stolen or lost, when either the owner or possessor resides in the city, or the theft or loss of the firearm occurs in the city. Any person violating this section is guilty of a misdemeanor. (Ord. 2016-0005 § 4; Ord. 2007-066 § 1)

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# **EXHIBIT R**

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## **SEC. 616. REPORTING THE LOSS OR THEFT OF FIREARMS.**

(a) Any person that owns or is otherwise in possession of a firearm shall report the theft or loss of such firearm to the San Francisco Police Department within 48 hours of becoming aware of the theft or loss whenever

- (1) the owner resides in San Francisco, or
- (2) the theft or loss of the firearm occurs in San Francisco.

(b) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms within 48 hours of when the owner or person in possession becomes aware or should have become aware of the theft or loss shall be punishable in accordance with Section 613.19.

(c) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms in a timely manner shall create a rebuttable presumption that the owner or person remains in possession of the firearm.

(Added by Ord. 260-04, File No. 031932, App. 11/4/2004; amended by Ord. [249-13](#), File No. 130585, App. 11/8/2013, Eff. 12/8/2013 )

(Former Sec. 616 added by Ord. 1.075, App. 10/11/38; repealed by Ord. 260-04, File No. 031932, App. 11/4/2004)



# **EXHIBIT S**

### **9.30.010 REPORTING LOST OR STOLEN FIREARMS.**

- (1) Any person that owns or is otherwise in possession of a firearm shall report the theft or loss of such firearm to the Santa Cruz police department within five calendar days of becoming aware of the theft or loss whenever: (a) the owner resides in the city of Santa Cruz; or (b) the theft or loss of the firearm occurs in the city of Santa Cruz.
- (2) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms within five calendar days of when the owner or person in possession becomes aware or should have become aware of the theft or loss shall be punishable in accordance with Section 9.30.020.
- (3) The failure of an owner or person in possession of a firearm to report the theft or loss of the firearms in a timely manner shall create a rebuttable presumption that the owner or person remains in possession of the firearm.
- (4) In order to encourage reports to law enforcement agencies of lost or stolen handguns pursuant to this section, a person who files a report with a law enforcement agency notifying the agency that a handgun has been lost or stolen shall not be subject to prosecution for violation of Section 9.29.020.

(Ord. 2015-16 § 2 (part), 2015).

# **EXHIBIT T**

## 5-22.12 - Reporting lost or stolen firearms.

- (a) Any person residing or doing business in the City, who owns or possesses a firearm, as defined in the Penal Code, shall report the theft or loss of the firearm to the Simi Valley Police Department within seventy-two (72) hours after his or her discovery or knowledge of the theft or loss.
- (b) Any person residing or doing business in the City, who has experienced the loss or theft of a firearm, as defined in the Penal Code, in the City within the five (5) years prior to September 13, 2007, without the firearm having been recovered during such time, shall report the theft or loss to the Simi Valley Police Department within ninety (90) days of September 13, 2007.
- (c) Any person who fails to report a lost or stolen firearm pursuant to this section, when the person knew or should have known of the theft or loss, is guilty of a misdemeanor and is punishable as provided in Chapter 2 of Title 1 of this Code.

(§ 1, Ord. 1119, eff. September 13, 2007, as amended by § 1 (Exh. A), Ord. 1151, eff. January 7, 2010)

# **EXHIBIT U**

**Sunnyvale Municipal Code**[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 9. PUBLIC PEACE, SAFETY OR WELFARE](#)[Chapter 9.44. FIREARMS](#)**9.44.030. Duty to report theft or loss of firearms.**

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Any person who owns or possesses a firearm (as defined in [Penal Code](#) Section 16520 or as amended) shall report the theft or loss of the firearm to the Sunnyvale Department of Public Safety within forty-eight hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the city of Sunnyvale; or (2) the theft or loss of the firearm occurs in the city of Sunnyvale. (Ord. 3027-13 § 1).

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View the [mobile version](#).

# **EXHIBIT V**

### **Sec. 5-11.02. Discharge or possession by minors.**

(a) If the person shooting or discharging under Section 5-11.01 of this chapter is a minor, then he or she shall be supervised by an adult person who is present when the minor is shooting or discharging.

(b) No minor shall possess in any public place any gun, rifle, or pistol as described in Section 5-11.01 of this chapter, except as follows:

(1) When such minor is in the immediate charge and supervision of a parent, guardian, or adult person having the responsibility for the conduct of such minor, regardless of whether the gun, rifle, or pistol is capable of being immediately discharged or whether it is unloaded or in a dismantled or "take-down" condition or completely wrapped or in a carrying case made for the purposes of carrying such firearm; and

(2) When such minor is engaged in marksmanship training or firearm safety training at an established range or shooting area, as provided and regulated in Section 5-11.01 of this chapter, under the supervision of a competent adult instructor.

(§ II, Ord. 774-NS, eff. April 9, 1981)



# **EXHIBIT W**

**32-27 - Reporting of loss or theft of firearm.**

It is unlawful for any person to fail to report to the police department the theft or loss of a firearm he or she owns or possesses within forty-eight hours of the time he or she knew or reasonably should have known that the firearm has been stolen or lost, if the person resides in the town or the loss or theft occurs in the town.

After July 5, 2016, it is unlawful for any person to fail to report to the police department the theft or loss of a firearm he or she owned or possessed within the five years prior to May 6, 2016 if the person resided in the town at the time of the loss or theft, or the loss or theft occurred in the town, unless the firearm has been recovered.

Pursuant to California Penal Code Section 11108, the chief of police shall submit a description of each firearm that has been reported lost or stolen directly to the California Department of Justice automated property system for firearms.

( Ord. No. 563 N.S. § 2A, 4-6-2016)

**PROOF OF SERVICE**  
**STATE OF CALIFORNIA**  
**COUNTY OF SANTA CLARA**

I, Tiffany M. Harbor, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

On June 11, 2020, I served the foregoing document(s) described as

**PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

on the interested parties in this action by placing

[ ] the original  
[X] a true and correct copy

thereof by the following means, addressed as follows:

Roderick M. Thompson  
[rthompson@fbm.com](mailto:rthompson@fbm.com)

James Allison  
[jallison@fbm.com](mailto:jallison@fbm.com)

Farella Braun + Martel LLP  
235 Montgomery Street, 17th Floor  
San Francisco, CA 94104

*Attorneys for Defendants/Respondents*

Hannah Shearer

[hshearer@giffords.org](mailto:hshearer@giffords.org)

Hannah Friedman

[hfriedman@giffords.org](mailto:hfriedman@giffords.org)

Giffords Law Center to Prevent Gun Violence  
268 Bush Street #555  
San Francisco, CA 94104

X (BY ELECTRONIC TRANSMISSION) As follows: I served a true and correct copy by electronic transmission via One Legal. Said transmission was reported and completed without error.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 11, 2020, at Long Beach, California.

s/ Tiffany M. Harbor  
Tiffany M. Harbor