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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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**NATIONAL ASSOCIATION FOR GUN RIGHTS, INC.**, a nonprofit corporation, and **MARK SIKES**, an individual,

Plaintiffs,

And

**HOWARD JARVIS TAXPAYERS ASSN.**, a nonprofit corporation, **SILICON VALLEY TAXPAYERS ASSN.**, a nonprofit corporation, **SILICON VALLEY PUBLIC ACCOUNTABILITY FOUNDATION**, a nonprofit corporation, **JIM BARRY**, an individual, and **GEORGE ARRINGTON**, an individual,

Plaintiffs,

v.

**CITY OF SAN JOSE**, a public entity, **JENNIFER MAGUIRE**, in her official capacity as City Manager of the City of San Jose, the **CITY OF SAN JOSE CITY COUNCIL**, and **ALL PERSONS INTERESTED** in the matter of **San Jose Ordinance No. 30716**, establishing an **Annual Gun Harm Reduction Fee**,

Defendants.

Case Number: 5:22-cv-00501-BLF  
Case Number: 5:22-cv-02365-BLF

**CONSOLIDATED SECOND AMENDED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, INVALIDATION OF §§ 10.32.215 AND 10.32.230(B) OF CHAPTER 10.32 OF TITLE 10 OF THE SAN JOSE MUNICIPAL CODE, AND NOMINAL DAMAGES**

**Judge: Hon. Beth Labson Freeman**



1 Plaintiffs by and through the undersigned counsel, hereby bring this consolidated action for  
2 injunctive relief, a declaratory judgment, invalidation of the fee provisions, and nominal damages as a  
3 result of the City of San Jose’s unconstitutional and unlawful ordinance, specifically Part 6 of Chapter  
4 10.32 of Title 10 of the San Jose Municipal Code (the “Ordinance”).

5 In support of these requests, Plaintiffs state as follows:

## 6 INTRODUCTION

7 1. The Second Amendment provides an “unqualified command”: “the right of the people  
8 to keep and bear Arms, shall not be infringed.” *See New York State Rifle and Pistol Association, Inc.*  
9 *v. Bruen*, 142 S.Ct. 2111, 2126 (2022) (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.  
10 10 (1981); U.S. Const., Amend. 2).

11 2. “The constitutional right to bear arms in public for self-defense is not ‘a second-class  
12 right, subject to an entirely different body of rules than the other Bill of Rights guarantees.’” *New*  
13 *York State Rifle and Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2156 (2022) (quoting  
14 *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010) (plurality opinion)).

15 3. The Second Amendment (incorporated through the Fourteenth Amendment)  
16 “guarantee[s] the individual right to possess and carry weapons in case of confrontation,” *District of*  
17 *Columbia v. Heller*, 554 U.S. 570, 592 (2008). This right is particularly acute at home, “where the  
18 need for defense of self, family, and property is most acute.” *Heller*, 554 U.S. at 628. Thus, the  
19 conduct at issue in this case falls within the plain text of the Second Amendment and is  
20 “presumptively protect[ed]” by the Constitution. *Bruen*, 142 S.Ct. at 2130.

21 4. The City of San Jose’s insurance mandate is utterly inconsistent with “the Nation’s  
22 historical tradition of firearm regulation.” *Bruen*, 142 S.Ct. at 2130. To the contrary, as the City’s  
23 Mayor highlighted in his own press release, the City of San Jose is “the *first* city in the United States  
24 to enact an ordinance to require gun owners to purchase liability insurance.” *San Jose Mayor*  
25 *Statement on Historic Passage of First in the Nation Gun Violence Reduction Ordinance* (Jan. 25,  
26 2022) (“Liccardo Press Release”) (attached as Exhibit A) (emphasis added)





**INTRADISTRICT ASSIGNMENT**

12. This action is properly assigned to the San Jose Division, pursuant to Civil L.R. 3-2(e). A substantial part of the events giving rise to the claims occurred in Santa Clara County, California.

**PARTIES**

13. Plaintiff National Association of Gun Rights (“NAGR”) is a non-stock, nonprofit corporation incorporated under the laws of the Commonwealth of Virginia and has its principal place of business in Loveland, Colorado. NAGR is a grassroots organization whose mission is to defend the right to keep and bear arms under the Second Amendment and advance the constitutional right by educating the American people and urging them to action in public policy. NAGR has members who would be subject to the Ordinance within the City of San Jose.

14. Plaintiff Mark Sikes resides in San Jose, California. Sikes legally owns a gun, is not a peace officer, does not have a concealed carry permit, and does not meet the qualifications of CAL. GOV. CODE § 68632 (a) and (b) and, therefore, would be subject to the Ordinance if it were to go into effect.

15. Plaintiffs NAGR and Mark Sikes are referred to collectively herein as “NAGR Plaintiffs.”

16. Plaintiff Howard Jarvis Taxpayers Association (“HJTA”) is a nonprofit public benefit corporation, comprised of over 200,000 California members, organized and existing under the laws of California for the purpose, among others, of engaging in civil litigation on behalf of its members and all California taxpayers to ensure constitutionality in taxation. HJTA has members who reside in the City of San Jose, who legally own firearms, and who are subject to the Annual Gun Harm Reduction Fee that is the subject of this action.

17. Plaintiff Silicon Valley Taxpayers Association, Inc. (“SVTA”) is a nonprofit public benefit corporation, comprised of members who reside in Santa Clara County, organized and existing under the laws of California for the purpose of advocating the reduction of taxes and acting on behalf of its members to achieve its tax reduction goals. SVTA has members who reside in the City of San Jose, who legally own firearms, and who are subject to the Annual Gun Harm Reduction Fee that is the subject of this action.

1 18. Plaintiff Silicon Valley Public Accountability Foundation (“SVPAF”) is a nonprofit  
2 public benefit corporation, comprised of members who reside in Santa Clara County, organized and  
3 existing under the laws of California for the purpose of monitoring the policies and political actions of  
4 public officials in Santa Clara County to keep voters informed and residents represented in local  
5 decision-making. SVPAF has members who reside in the City of San Jose, who legally own firearms,  
6 and who are subject to the Annual Gun Harm Reduction Fee that is the subject of this action.

7 19. Plaintiff Jim Barry is a resident of San Jose who legally owns a firearm and is subject to  
8 the Annual Gun Harm Reduction Fee that is the subject of this action.

9 20. Plaintiff George Arrington is a resident of San Jose who legally owns a firearm and is  
10 subject to the Annual Gun Harm Reduction Fee that is the subject of this action.

11 21. Plaintiffs HVTA, SVTA, SVPAF, Jim Barry and George Arrington are collectively  
12 referred to herein as “Howard Jarvis Plaintiffs.”

13 22. Defendant City of San Jose is a municipal corporation within the County of Santa  
14 Clara, California.<sup>1</sup>

15 23. Defendant Jennifer Maguire (“Maguire”) is the current and active City Manager for the  
16 City of San Jose. San Jose’s Charter states that the City Manager is the “Chief Administrative Officer  
17 and head of the administrative branch of the City government.” San Jose City Charter §§ 502, 701.  
18 “The City Manager shall be responsible for the faithful execution of all laws, provisions of this  
19 Charter, and acts of the Council which are subject to enforcement by the City Manager or by the  
20 officers who are under the City Manager’s direction and supervision.” *Id.*, § 701(d). Additionally, the  
21 City Manager is directly identified with enforcement authority throughout the Ordinance. Ordinance  
22 §§ 10.32.205, 210, 215, 235, & 250.

23 24. Defendant San Jose City Council (the “City Council”) is vested with authority under  
24 Article IV of the City of San Jose’s City Charter (Ex. A). The Ordinance vests the City Council with  
25 authority to “set forth the schedule of fees and charges established by resolution of the City Council”  
26 and to “set forth...the schedule of fines” for those who violate the ordinance. *Id.*, § 10.32.215;

27  
28 <sup>1</sup> See *City of San Jose City Charter, as amended* (Feb. 2021),  
<https://www.sanjoseca.gov/home/showpublisheddocument/13907/638058439112030000>

1 10.32.250; 10.32.240.

2 25. Defendants All Persons Interested in the matter of San Jose Ordinance No. 30716,  
3 establishing an Annual Gun Harm Reduction Fee will be bound by any validation judgment issued in  
4 this case pursuant to California Code of Civil Procedure section 870. Jurisdiction by the California  
5 court over All Persons was obtained by published summons pursuant to Code of Civil Procedure  
6 sections 861 and 862.

## 7 STATEMENT OF FACTS

### 8 Enactment of the Ordinance

9 26. On June 29, 2021, the City Council directed San Jose City Attorney Nora Frimann “to  
10 return to Council with an ordinance for Council consideration that would require every gun owner  
11 residing in the City of San José, with certain exceptions, to obtain and maintain a City-issued  
12 document evincing payment of an annual fee, and attestation of insurance coverage for unintentional  
13 firearm-related death, injury, or property damage.” Frimann Mem. re Gun Harm Reduction Ord. at 1  
14 (Jan. 14, 202, 1 (“City Attorney Mem.”) (a true and correct copy is attached as Exhibit B). Plaintiff  
15 NAGR immediately sent the City a cease and desist letter warning that the proposed ordinance was  
16 unconstitutional. *Ltr. from H. Dhillon and D. Warrington to San Jose City Council*, (July 14, 2021) (a  
17 true and correct copy is attached as Exhibit C).

18 27. On January 14, 2022, in advance of the City Council’s January 25 meeting, the City  
19 Attorney issued a memorandum in compliance with the City Council’s directions that recommended  
20 the Council “[c]onsider approving an ordinance amending Title 10 of the San José Municipal Code to  
21 add Part 6 to Chapter 10.32 to reduce gun harm by: (a) requiring gun owners to obtain and maintain  
22 liability insurance; and (b) authorizing a fee to apply to gun harm reduction programs.” City Attorney  
23 Mem. at 1. Under a section addressing penalties for noncompliance, the City Attorney stated that  
24 “[f]ailure to comply shall constitute a civil violation subjecting the owner to the temporary or  
25 permanent seizure of the gun, and under specified circumstances, a fine.” *Id.* at 2.

26 28. On January 21, 2022, Mayor Liccardo, Vice Mayor Jones, Councilmember Cohen, and  
27 Councilmember Carrasco issued “Directions” to the City Council, including to “[a]pprove the  
28 proposed ordinance,” with certain modifications. *Mayor’s Mem. to City Council* at 2 (Jan. 21, 2022) (a

1 true and correct copy is attached as Exhibit D). The Mayor’s Memorandum also noted that “Members  
2 of the California legislature are exploring bills to have law enforcement agencies seize guns as a  
3 sanction for violations of local gun regulations, with subsequent restoration of ownership as required  
4 by constitutional due process.” *Id.* at 4 (emphasis added).

5 29. On January 25, 2022, the City Council approved the ordinance through two votes  
6 regarding various changes. *Tuesday, January 25, 2022 City Council Meeting Synopsis* at 13 (a true  
7 and correct copy is attached as Exhibit E).

8 30. The Ordinance requires any San Jose resident who owns a firearm to “obtain and  
9 continuously maintain in full force and effect a homeowner’s, renter’s or gun liability insurance policy  
10 ... specifically covering losses or damages resulting from any accidental use of the Firearm.” (San Jose  
11 Muni. Code § 10.32.210(A).)

12 31. The Ordinance also requires San Jose gun owners to pay an “Annual Gun Harm  
13 Reduction Fee” to a “Designated Nonprofit Organization” that the City Manager will designate from  
14 time to time. The amount of the annual fee “will be set forth in the schedule of fees and charges  
15 established by resolution of the City Council.” (Muni. Code § 10.32.215.) In the 2022/2023 schedule of  
16 fees, the Gun Harm Reduction Fee is set at \$25 per year.

17 32. “Designated Nonprofit Organization” is defined in the Ordinance as “an entity that  
18 qualifies as a nonprofit corporation under the federal internal revenue code and is designated pursuant  
19 to the City Manager’s authority under Section 10.32.235,” provided that “[n]o City official or  
20 employee shall sit on the board of directors of the Designated Nonprofit Organization.” (Muni. Code §  
21 10.32.205(B).) Section 10.32.235, in subdivision (A)(2), delegates authority to the City Manager for  
22 “[d]esignation of the nonprofit organization that will receive the Gun Harm Reduction Fee.”

23 33. The Ordinance provides basic guidelines for expenditure of the fee by the nonprofit  
24 organization. It says, “expenditures may include, but are not necessarily limited to the following: (1)  
25 Suicide prevention services or programs; (2) Violence reduction or gender based violence services or  
26 programs; (3) Addiction intervention and substance abuse treatment; (4) Mental health services related  
27 to gun violence; or (5) Firearms safety education or training.” (Muni. Code § 10.32.220(A).)

28 34. The Ordinance further states, “The Designated Nonprofit Organization shall spend

1 every dollar generated from the Gun Harm Reduction Fee, minus administrative expenses, exclusively  
2 for programs and initiatives designed to (a) reduce the risk or likelihood of harm from the use of  
3 firearms in the City of San Jose, and (b) mitigate the risk of physical harm or financial, civil, or  
4 criminal liability that a San Jose firearm owner or her family will incur through her possession of  
5 firearms.” (Muni. Code § 10.32.220(C).). Except for these basic guidelines, the Ordinance provides  
6 that “the City shall not specifically direct how the monies from the Gun Harm Reduction Fee are  
7 expended.” (Muni. Code § 10.32.220(C).)

8 35. A gun owner’s failure to pay the required fee to the designated private organization is  
9 punishable by a fine (Muni. Code § 10.32.240(A)) and confiscation of the owner’s firearms (Muni.  
10 Code § 10.32.245).

11 36. The Mayor immediately issued a press release the night of the vote, in which he  
12 boasted that “Tonight San José became *the first city in the United States* to enact an ordinance to  
13 require gun owners to purchase liability insurance, and to invest funds generated from fees paid by  
14 gun owners into evidence-based initiatives to reduce gun violence and gun harm.” Liccardo Press  
15 (emphasis added).

16 37. Within 24 hours, articles were published about San Jose enacting an unprecedented  
17 regulation of gun ownership, including in the San Francisco Chronicle and the Los Angeles Times.  
18 *See* Lauren Hernández, *Gun Owners In San Jose Must Buy Liability Insurance Under Newly Passed*  
19 *First-In-The-Nation Law*, SAN FRANCISCO CHRONICLE (Jan. 26, 2022)  
20 [https://www.sfchronicle.com/bayarea/article/Gun-owners-in-San-Jose-must-buy-liability-](https://www.sfchronicle.com/bayarea/article/Gun-owners-in-San-Jose-must-buy-liability-16804951.php)  
21 [16804951.php](https://www.sfchronicle.com/bayarea/article/Gun-owners-in-San-Jose-must-buy-liability-16804951.php) (a true and correct copy is attached as Exhibit F) (“The San Jose City Council adopted  
22 a measure Tuesday night requiring gun owners in the South Bay city to buy liability insurance for  
23 their firearms, city officials said. The ordinance – which city officials said marks *the first such law*  
24 *for a city, state, or other jurisdiction in the country . . .*” (emphasis added)); Olga R. Rodriguez and  
25 Juliet Williams, *San Jose Approves First Law In U.S. Requiring Gun Owners To Have Insurance*, LOS  
26 ANGELES TIMES (Jan. 25, 2022), [https://www.latimes.com/california/story/2022-01-25/san-jose-gun-](https://www.latimes.com/california/story/2022-01-25/san-jose-gun-liability-insurance)  
27 [liability-insurance](https://www.latimes.com/california/story/2022-01-25/san-jose-gun-liability-insurance) (a true and correct copy is attached as Exhibit G) (“The city of San Jose voted  
28 Tuesday night to require gun owners to carry liability insurance *in what’s believed to be the first*

1 *measure of its kind in the United States.* The San Jose City Council overwhelmingly approved the  
2 measure despite opposition from some gun owners who said it would violate their 2nd Amendment  
3 rights.” (emphasis added)).

4 38. On February 8, 2022, the City Council voted a second time to approve the Ordinance.

5 39. On October 21, 2022, City Manager Regulations for the Ordinance went into effect  
6 (attached as Exhibit H ).

7 40. Section 2.1 of the City Manager Regulations provides “Firearm owners residing in San  
8 Jose who are required by SJMC section 10.32.210 to obtain liability insurance shall obtain such  
9 insurance by January 1, 2023.”

10 41. Fines for violations of the Ordinance begin at \$250 for a first offense and increase to  
11 \$500 for a second offense and \$1000 for a third offense within a year.

12 42. Section 2.2 of the Regulations state “[t]his version of the City Manager Regulations for  
13 the Reduction of Gun Harm Ordinance does not set a payment date; a payment date will be  
14 established in an amended version of these regulations to be issued in the future. Individuals covered  
15 by the Gun Harm Reduction Fee are not required to pay the fee until a payment date is set through the  
16 amended regulations.

17 43. With respect to the purported Gun Harm Reduction Fee, the City provided to the  
18 District Court an Implementation Timeline. Per the Timeline, “issu[ing] a Request for Proposals to  
19 procure the designated nonprofit” would not occur until September 2022. The Timeline projected  
20 “December 2022” as the date by which the City Manager would “finalize contract with designated  
21 nonprofit.”

22 44. The District Court granted the City’s motion to dismiss plaintiffs’ claims as unripe,  
23 with leave to amend the complaint by February 2, 2023, based on the Timeline showing that the City  
24 Manager would issue a Request for Proposals in September, then select a nonprofit from among the  
25 proposals received and finalize a contract by the end of December.

26 45. On January 6, 2023, the City filed a Status Report in which it represented that the City  
27 Manager “has now completed all relevant tasks in the Implementation Timeline, except for the task  
28 listed as ‘Finalize contract with designated nonprofit’ with an estimated completion date of December

1 2022.” (01/06/23 Status Report, ECF #85 at 3:6).

2 46. Yet the City Manager had not “issu[ed] a Request for Proposals to procure the  
3 designated nonprofit” which, according to the Timeline, was supposed to be done in September.  
4 Instead, the City Manager issued something else – a “Request for Information.” The Status Report  
5 explained the difference: “RFIs are used by the City to solicit information about potential solutions  
6 and *do not typically result in a contract award*, whereas RFPs are used by the City to gather responses  
7 and pricing from potential contractors to deliver a specific City defined scope of work, with the  
8 purpose of awarding one or more contracts at the end of the RFP process.” (ECF #85 at 3:25.).

9 47. The Status Report informed the Court that no qualified organizations responded to the  
10 City Manager's Request for Information (*id.* at 3:13.) so the City Manager “has decided that the best  
11 approach to progress implementation at this point is to ... publish a full Request for Proposals ....  
12 Unfortunately, the lack of satisfactory RFI responses and the upcoming RFP process will delay the  
13 steps necessary for full implementation.” (*Id.* at 3:20.) The Status Report offered no date by which  
14 these overdue “steps necessary for full implementation” might be completed.

15 48. Despite the City’s delay in designating a nonprofit, and its equivocation on the ultimate  
16 amount of the fee, this controversy is ripe because a fee of \$25 has been imposed for the 2022/2023  
17 fiscal year and, although the City is not currently enforcing proof of payment (because there is no  
18 nonprofit to accept payment), the City has *not* waived the fee. The the 2022/2023 fee apparently will  
19 be due and payable once a nonprofit has been designated.

20 49. This controversy is ripe because, regardless of the ultimate identity of the nonprofit  
21 organization, the City’s Ordinance requires the nonprofit to expend the fee providing services such as  
22 suicide prevention, gender based violence prevention, addiction intervention and substance abuse  
23 treatment, and mental health counseling for victims of gun violence, which services will be available  
24 to the general public, not just gun owners, and which gun owners are not required to, and may not  
25 choose to, utilize. Because its revenue will fund public services, not services requested by each payer,  
26 the “fee” is a tax under California law.

### 27 **The Burdens of the Ordinance**

28 50. The Ordinance will require an estimated 50,000-55,000 gun-owning San Jose Citizens,



1 minus a few exceptions, to obtain an insurance policy and pay annual fees simply to exercise the  
2 same constitutional right to own a gun that existed prior to this ordinance. *Liccardo Mem. re Gun*  
3 *Harm Reduction Ord.* (Jan., 19, 2022) (a true and accurate copy is attached as Exhibit I).

4 51. The Ordinance states that “[t]o the extent allowed by law, the Firearm or Firearms of a  
5 person that [*sic*] is not in compliance with [the Ordinance] may be impounded subject to a due  
6 process hearing.” Ordinance § 10.32.245. Further, “[a]ny violation” of the Ordinance is “punishable  
7 by an administrative citation,” “fines for violations,” and “all other civil and administrative remedies  
8 available to the City.” *Id.*, § 10.32.240; *see also* City Attorney Mem. at 2 (“Failure to comply [with  
9 the Ordinance] shall constitute a civil violation subjecting the owner to the temporary or permanent  
10 seizure of the gun, and under specified circumstances, a fine.”). At present, the City has no authority  
11 to seize a person’s gun for violating the Ordinance, but “[m]embers of the California legislature are  
12 exploring bills to have law enforcement agencies seize guns as a sanction for violations of local gun  
13 regulations . . .” Mayor’s Mem. to City Council, Jan. 21, 2022.

14 52. The Ordinance targets guns in the home. It does not apply to people who have a license  
15 to carry a concealed weapon. *Id.*, § 10.32.225. Additionally, absent a concealed carry permit, there is  
16 no other way to carry a firearm in San Jose. *See* CAL. PENAL CODE §§ 25850, 26150, 26155, 26350,  
17 26400.

### 18 ***Insurance Requirement***

19 53. The Ordinance conditions the constitutional right to own a gun on the payment of an  
20 unstated amount for insurance. It states that “A person who resides in the City of San Jose and owns  
21 or possesses a Firearm in the City shall obtain and continuously maintain in full force and effect a  
22 homeowner’s, renter’s or gun liability insurance policy...specifically covering losses or damages  
23 resulting from any accidental use of the Firearm, including but not limited to death, injury, or property  
24 damage.” Ordinance § 10.32.210.A.

25 54. This requirement does not contain any information about minimum insurance coverage  
26 thresholds or premiums. Thus, the City of San Jose has conditioned the constitutional right of its law-  
27 abiding citizens to own a gun on an unstated, unregulated price to be set by an industry of for-profit  
28 private sector corporations.



1 55. Moreover, the City’s findings did not include any evidence that there will always be  
2 insurance policies “specifically covering losses or damages resulting from any accidental use of”  
3 firearms, or what any such policy will cost. *See* Ordinance § 10.32.200.B.10 (“[i]njuries from  
4 unintentional shootings . . . are *generally* insurable” (emphasis added)).

5 56. The Ordinance does nothing to ensure that insurance companies will provide policies  
6 “specifically covering” losses arising from accidental firearm use for any and every citizen who is  
7 subject to the Ordinance, which means the City’s insurance mandate would establish a precondition to  
8 gun ownership that empowers for-profit insurance companies (with or without government pressure)  
9 to prohibit persons from exercising their Second Amendment rights.

10 ***Fee Requirement***

11 57. The second primary component of the Ordinance is the imposition of a “fee” for  
12 owning a gun. The Ordinance states that “A person who resides in the City and owns or possesses a  
13 Firearm in the City shall pay an Annual Gun Harm Reduction Fee to the Designated Nonprofit  
14 Organization each year.” Ordinance § 10.32.215. No fee amount is specified, nor is there criteria for  
15 how to calculate the fee. *Id.* Rather, Defendant City Council reserved the right for itself to determine  
16 the fee amount at a later date. *Id.* This fee is currently set at an amount of \$25, but is subject to  
17 change. Memorandum from Sarah Zarate to San Jose Mayor and City Council Re: Gun Harm  
18 Reduction Ordinance Update (July 1, 2022), available at [sanjoseca.gov/home/showpublished](https://sanjoseca.gov/home/showpublisheddocument/87508)  
19 [document/87508](https://sanjoseca.gov/home/showpublisheddocument/87508).

20 58. The destination of the money is to a still undetermined nonprofit. That determination is  
21 delegated to Defendant Maguire. *Id.*, §§ 10.32.205.B; 10.32.220; *see also* City Manager Regulations  
22 at § 2-2 (“This version of the City Manager Regulations for the Reduction of Gun Harm Ordinance  
23 does not set a payment date; a payment date will be established by an amended version of these  
24 regulations to be issued in the future.”).

25 59. The nonprofit fee in the Ordinance is not to defray the City’s administrative costs.  
26 Rather, “all monies . . . shall be expended by the Designated Nonprofit Organization . . .” *Id.*,  
27 § 10.32.220.A.

28 60. The only selection criteria for the Designated Nonprofit Organization is that it

1 “provid[e] services to residents of the City that own or possess a Firearm in the City or to members of  
2 their household, or to those with whom they have a close familial or intimate relationship.” These  
3 services “include, but are not necessarily limited to” suicide prevention services or programs, violence  
4 reduction or gender based violence services or programs, mental health services related to gun  
5 violence, firearms safety education or training, or addiction intervention and substance abuse  
6 treatment. *Id.*, § 10.32.220.A (emphasis added).

7 61. “[T]he City shall not specifically direct how the monies from the Gun Harm Reduction  
8 Fee are expended” by the nonprofit. *Id.*, § 10.32.220.C.

9 62. The fee thus functions to compel gun owners to give their money to a government  
10 approved nonprofit to spend on vaguely specified and/or unspecified programs at the nonprofit’s  
11 discretion, none of which are services that the City is obligated to perform. While the nonprofit must  
12 make these services available to “residents of the City that own or possess a Firearm,” it must also  
13 make those services available to non-gun owning “members of their household,” and is nowhere  
14 precluded from making those services available to the general public. Indeed, the nature of many of  
15 the services listed in the Ordinance (suicide prevention, gender based violence prevention, addiction  
16 intervention and substance abuse treatment, mental health counseling for victims of gun violence, and  
17 gun safety “education”) covers a much wider population than just gun owners. This compelled  
18 donation by gun owners to one City favored nonprofit to provide public “education,” which may  
19 include advocating about the dangers of gun ownership, and other services with little to no connection  
20 to the payer’s ownership of a gun and little or no municipal oversight is not only obnoxious to the  
21 Constitution, it is an invitation to corruption and waste.

22 63. By its plain terms, this fee and insurance requirement do not compensate the City to  
23 cover reasonable costs of governmental activity, because they are not for government activity. Further,  
24 the manner in which those costs are allocated to gun owners do not bear a fair or reasonable  
25 relationship to the gun owner’s burdens on, or benefits received from, the City’s governmental  
26 activity.

27 64. Indeed, the Ordinance also authorizes a separate fee just to recoup the costs associated  
28

1 in administering the Ordinance. *Id.* § 10.32.250.

2 65. Accordingly, as discussed further below, the “Annual Gun Harm Reduction Fee”—  
3 unconnected to the cost of City services and for unspecified programs outside of the City’s control—  
4 and the mandatory insurance requirement backed by the threat of fines are nothing more than costs  
5 that the City is imposing on the exercise of a constitutional right.

### 6 **The Second Amendment**

7 66. The Second Amendment to the United States Constitution states that “[a] well  
8 regulated Militia, being necessary to the security of a free State, the right of the people to keep and  
9 bear Arms, shall not be infringed.” U.S. Const., amend. II.

10 67. “[I]t is clear that the Framers and ratifiers of the Fourteenth Amendment counted the  
11 right to keep and bear arms among those fundamental rights necessary to our system of ordered  
12 liberty.” *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 778 (2010).

13 68. Consistent with this protection, in *Bruen* the Supreme Court held “when the Second  
14 Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that  
15 conduct.” *Bruen*, 142 S.Ct. at 2126.

16 69. “As [the Supreme Court] explained in *Heller*, the ‘textual elements’ of the Second  
17 Amendment’s operative clause . . . ‘guarantee the individual right to possess and carry weapons in  
18 case of confrontation.’” *Bruen*, 142 S.Ct. at 2134 (quoting *Heller*, 554 U.S. at 592). Thus, in *Heller*  
19 and *McDonald*, the Supreme Court “recognized that the Second and Fourteenth Amendments protect  
20 the right of an ordinary law-abiding citizen to possess a handgun in the home for self-defense.”  
21 *Bruen*, 142 S.Ct. at 2122.

22 70. “[T]he need for armed self-defense is perhaps ‘most acute’ in the home,” *Bruen*, 142  
23 S.Ct. at 2135 (quoting *Heller*, 544 U.S. at 628) but also extends to “a right to ‘bear’ arms in public for  
24 self-defence.” *Id.*

25 71. Thus, NAGR Plaintiffs assert that the Ordinance burdens an activity that falls within  
26 the plain text of the Second Amendment: the right to keep and bear arms in the home for self-defense  
27 and the right to bear arms in public for self-defense, including when transporting firearms from one  
28 location to another.

1           72. As the Supreme Court has noted, “*Heller* and *McDonald* expressly rejected the  
2 application of any ‘judge-empowering interest-balancing inquiry that asks whether the statute burdens  
3 a protected interest in a way or to an extent that is out of proportion to the statute’s salutary effects  
4 upon other important governmental interests.” *Bruen*, 142 S.Ct. at 2129 (quoting *Heller*, 554 U.S. at  
5 634) (other citations omitted). Thus, “[t]he Second Amendment ‘is the very *product* of an interest  
6 balancing by the people’ and it ‘surely elevates above all other interests the right of law-abiding,  
7 responsible citizens to use arms’ for self-defense.” *Bruen*, 142 S.Ct. at 2131 (quoting *Heller*, 544 U.S.  
8 at 635).

9           73. Accordingly, government may not justify regulations that infringe upon the Second  
10 Amendment by reference to some “important interest” or balancing test; “[o]nly if a firearm regulation  
11 is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct  
12 falls outside of the Second Amendment’s ‘unqualified command.’” *Bruen*, 142 S.Ct. at 2126 (quoting  
13 *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)).

14           74. The problem of gun violence in densely populated communities is not new. Adopting  
15 an insurance requirement and/or fee for all gun owners is a solution “that the Founders themselves  
16 could have adopted to confront that problem,” *Bruen*, 142 S.Ct. at 2131, but in fact did not adopt.

17           75. To the contrary, the City and its leaders have emphasized the novelty of the City’s  
18 insurance and fee requirements.

19           76. Local governments, including the City of San Jose, are bound by the Second  
20 Amendment because of the Fourteenth Amendment. *See Bruen*, 142 S.Ct. 2137 (“Strictly speaking,  
21 New York is bound to respect the right to keep and bear arms because of the Fourteenth  
22 Amendment.”); *McDonald*, 561 U.S. at 790; *Nordyke v. King*, 681 F.3d 1041, 1044 (9th Cir. 2012).

23           77. Second Amendment rights are not subject to a free floating balancing test or judged  
24 against the “important interests” identified by the government.

25           78. The Ordinance cites a number of statistics about gun violence, but provides no  
26 examples of how it is consistent with this Nation’s historical tradition of firearms ownership. To the  
27 contrary, the Mayor and other sources, apparently relying on city officials, have emphasized the  
28 unique, “first of its kind” nature of the insurance requirement.

1           79.     Although the Supreme Court in *Bruen* noted that there were past laws that required  
2 individuals “reasonably accused of intending to injure another or breach the peace” or “threatening to  
3 do harm” to obtain a bond in order to carry a gun *in public*, *see Bruen* at 2120, 2148, there is no  
4 historical tradition of requiring every gun owner to purchase insurance for the mere ownership of  
5 guns, even if the guns stay locked within the home and are never carried in public.

6           80.     Moreover, while state actors may collect a fee to “meet the expense incident to the  
7 administration of the act and to the maintenance of public order in the matter licensed,” *Cox v. New*  
8 *Hampshire*, 312 U.S. 569 (1941), they “may not impose a charge for the enjoyment of a right granted  
9 by the federal constitution.” *Murdock v. Pennsylvania*, 319 U.S. 105, 113 (1943). In the Second  
10 Amendment context, at least one Court of Appeals has stated “imposing fees on the exercise of  
11 constitutional rights is permissible when the fees are designed to defray (and do not exceed) the  
12 administrative costs of regulating the protected activity.” *Kwong v. Bloomberg*, 723 F.3d 160, 165  
13 (2nd Cir. 2013).

14           81.     Neither the insurance premium nor the fee to be paid to the City’s chosen nonprofit are  
15 designed to defray the City’s administrative costs. Instead, they impose a charge simply for the  
16 enjoyment of a right guaranteed by the federal constitution.

17           82.     In sum, the NAGR Plaintiffs assert that the insurance requirement in the Ordinance  
18 violates the Second Amendment, as incorporated by the Fourteenth Amendment, by placing a burden  
19 on the right to keep and bear arms that is inconsistent with this Nation’s history and tradition of  
20 firearms regulation.

21           83.     Accordingly, the Plaintiffs request that this court issue preliminary and permanent  
22 injunctions preventing Defendants from enforcing the insurance mandate, fee requirement, and their  
23 associated enforcement provisions of Ordinance pursuant to 42 U.S.C. § 1983, declare the insurance  
24 mandate, fee provisions, and associated enforcement provisions of the Ordinance unconstitutional  
25 under the Constitution of the United States, issue nominal damages, and order any other relief this  
26 Court deems necessary and proper.

27  
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**FIRST CLAIM FOR RELIEF (NAGR PLAINTIFFS ONLY)**

**Violation of the Second and Fourteenth Amendments (42 U.S.C. § 1983)**

***The Ordinance requiring owners of guns to purchase insurance and pay a fee violates the Second and Fourteenth Amendments to the United States Constitution.***

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3  
4 84. NAGR Plaintiffs incorporate by reference and re-allege each of the Paragraphs set forth  
5 above.

6 85. The Second Amendment of the United States Constitution guarantees “the right of the  
7 people to keep and bear arms” and that right “shall not be infringed.” U.S. CONST., amend. II.

8 86. In a Second Amendment inquiry, a Court asks whether the “Second Amendment’s  
9 plain text covers an individual’s conduct.” *Bruen*, 142 S.Ct. at 2126. If so, “government must  
10 demonstrate that the regulation is consistent with this Nation’s historical tradition of firearms  
11 regulation.” *Id.*

12 87. The Ordinance’s insurance and/or fee requirements imposes a cost on Plaintiffs and all  
13 gun owners merely for choosing to keep and bear arms in the home. Thus, the Ordinance places a  
14 burden on conduct central to the plain text of the Second Amendment.

15 88. The City has not (and cannot) demonstrated that the Ordinance is consistent with this  
16 Nation’s historical tradition of firearms regulation. To the contrary, the City has emphasized the new  
17 and unique nature of the insurance and fee provisions.

18 89. Thus, the insurance and fee provisions of the Ordinance violate the Second and  
19 Fourteenth Amendments to the Constitution of the United States.

20 90. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm  
21 to their constitutional rights unless Defendants are enjoined from implementing and enforcing the  
22 Ordinance.

23 91. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to preliminary and  
24 permanent injunctive relief invalidating and restraining enforcement of the Ordinance as well as  
25 declaratory relief.

26 92. Plaintiffs found it necessary to engage the services of private counsel to vindicate their  
27 rights under the law. Plaintiffs are therefore entitled to an award of attorneys’ fees pursuant to 42  
28

1 U.S.C. § 1988.

2 **SECOND CLAIM FOR RELIEF (ALL PLAINTIFFS)**

3 **Violation of the First and Fourteenth Amendments (42 U.S.C. § 1983)**

4 ***The Ordinance requiring owners to pay a fee to a nonprofit organization to exercise their***  
5 ***constitutional rights violates the First and Fourteenth Amendments to the United States***  
6 ***Constitution.***

7 93. Plaintiffs repeat the allegations above as though fully set forth herein.

8 94. The First Amendment of the United States Constitution, made applicable to the states  
9 through the Fourteenth Amendment, provides, “Congress shall make no law ... abridging the  
10 freedom of speech ... or the right of the people peaceably to assemble.”

11 95. Freedom of speech includes the right to not speak and the right to not be forced by the  
12 government to support someone else’s speech, particularly when you disagree with their message.  
13 The right to peaceably assemble includes the right to associate with others around a common cause  
14 and the right to not be forced by the government to associate with or support someone else’s  
15 organization, particularly a group with which you would not voluntarily assemble.

16 96. By requiring San Jose gun owners to pay an Annual Gun Harm Reduction Fee to a  
17 private nonprofit organization that the City Manager will designate, the Ordinance forces San Jose  
18 gun owners to associate with or support that private group and to fund their message, in violation of  
19 the gun owners’ rights of free speech and association under the United States Constitution.

20 97. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm  
21 to their constitutional rights unless Defendants are enjoined from implementing and enforcing the fee  
22 provisions of the Ordinance.

23 98. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to preliminary and  
24 permanent injunctive relief invalidating and restraining enforcement of the Ordinance as well as  
25 declaratory relief.

26 99. Plaintiffs found it necessary to engage the services of private counsel to vindicate their  
27 rights under the law. Plaintiffs are therefore entitled to an award of attorneys’ fees pursuant to 42  
28 U.S.C. § 1988.

1                   **THIRD CLAIM FOR RELIEF (ALL PLAINTIFFS AS DESCRIBED BELOW)**  
2                   **Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202**  
3                   ***Plaintiffs are entitled to declaratory relief.***

4           100. Plaintiffs incorporate by reference and re-allege herein each of the Paragraphs set forth  
5 above.

6           101. To the extent that each of the claims above have not already established a remedy,  
7 Plaintiffs are entitled to declaratory relief holding that the Ordinance violates Plaintiffs’ individual  
8 rights under the Constitution of the United States and is otherwise invalid, are entitled to preliminary  
9 and permanent injunctions preventing the enforcement of the Ordinance, nominal damages, and  
10 further relief that this Court deems necessary or proper.

11           102. NAGR Plaintiffs are entitled to declaratory relief with respect to both the insurance  
12 mandate and the fee. Based on their claims above, Howard Jarvis Plaintiffs are entitled to declaratory  
13 relief based on the First Amendment with respect to the fee provision of the Ordinance.  
14

15                   **FOURTH CLAIM FOR RELIEF (HOWARD JARVIS PLAINTIFFS ONLY)**  
16                   **Violation of California Rights of Speech and Association**

17           103. Except as specified above, the Howard Jarvis Plaintiffs repeat the allegations contained  
18 in the Paragraphs above as though fully set forth herein.

19           104. Article I, sections 2 and 3 of the California Constitution provide, “A law may not  
20 restrain or abridge liberty of speech,” and “The people have the right to ... assemble freely to consult  
21 for the common good.”  
22

23           105. Liberty of speech includes the right to not speak and the right to not be forced by the  
24 government to support someone else’s speech, particularly when you disagree with their message. The  
25 right to assemble freely includes the right to associate with others around a common cause and the  
26 right to not be forced by the government to associate with or support someone else’s organization,  
27 particularly a group with which you would not voluntarily assemble.  
28



1           106. By requiring San Jose gun owners to pay an Annual Gun Harm Reduction Fee to a  
2 private nonprofit organization that the City Manager will designate, the Ordinance forces San Jose  
3 gun owners to associate with or support that private group and to fund their message, in violation of  
4 the gun owners’ rights of free speech and association under the California Constitution.

5                           **FIFTH CLAIM FOR RELIEF (HOWARD JARVIS PLAINTIFFS ONLY)**  
6                           **Violation of Doctrine of Unconstitutional Conditions**

7           107. Except as set forth above, the Howard Jarvis Plaintiffs repeat the allegations contained  
8 in the Paragraphs above as though fully set forth herein.

9           108. The Second Amendment of the United States Constitution provides, “the right of the  
10 people to keep and bear arms, shall not be infringed.”

11           109. Howard Jarvis Plaintiffs gun owners wish to continue exercising their rights under the  
12 United States and California constitutions to protect their property and personal safety by keeping and  
13 bearing arms. However, the Ordinance has placed a condition on the continued exercise of those rights:  
14 any gun owner who fails to pay the required fee to the designated private organization may be forced to  
15 surrender his firearms to the City. (Muni. Code § 10.32.245.)

16           110. The City has represented to the District Court that section 10.32.245 does not currently  
17 threaten gun owners with confiscation of their firearms because it reads, “*To the extent allowed by*  
18 *law, the Firearm or Firearms of a person that is not in compliance with this Part may be impounded*  
19 *subject to a due process hearing*” and, according to the City, the law does not currently authorize city  
20 police to confiscate a firearm with or without a due process hearing.

21           111. The Howard Jarvis Plaintiffs believe that representation is incorrect. City police are  
22 authorized by law to, and often do, confiscate firearms when carried or used in violation of the law. If  
23 a student brings a firearm to school, if someone is carrying a firearm in public without a CCW permit,  
24 if someone with a CCW permit is carrying a firearm while intoxicated, if someone purchases a firearm  
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1 on the street without going through a federally licensed dealer, if someone discharges a firearm in the  
2 air on New Year’s Eve, and for a host of other reasons, city police are authorized to, and often do,  
3 confiscate firearms when carried or used in violation of the law.

4 112. The City’s Ordinance makes it a violation of the law to own a gun in the City of San  
5 Jose unless you timely pay the annual Gun Harm Reduction Fee. San Jose Municipal Code section  
6 1.08.010 provides, “No person shall violate any provision or fail to comply with any of the  
7 requirements of this Code or of any other ordinance of the city. Any person violating any of the  
8 provisions or failing to comply with any of the mandatory requirements of this Code or of any city  
9 ordinance, other than administrative provisions thereof, shall be guilty of a misdemeanor, unless the  
10 violation of such provision is designated as an infraction or is a parking violation. The Code provisions  
11 for which a violation is an infraction are set forth in Section 1.08.020. The Code provisions for which a  
12 violation is a parking violation are set forth in Section 1.08.025.” Possessing a gun without paying the  
13 fee is not an infraction. It is a misdemeanor violation of the law, and city police can confiscate a gun  
14 that is kept or carried in violation of the law.  
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18 113. Howard Jarvis Plaintiffs gun owners’ right to keep a gun in their home for protection is  
19 “inalienable.” It is not a right granted by the City of San Jose that can be withheld or revoked by the  
20 City if gun owners do not comply with conditions contrived by the City. Under the doctrine of  
21 unconstitutional conditions, the City can no more charge a fee to own a gun than it could charge a fee  
22 to own a Bible.  
23

24 **SIXTH CLAIM FOR RELIEF (HOWARD JARVIS PLAINTIFFS ONLY)**  
25 **Special Tax Lacking Voter Approval**

26 114. Except as set forth above, the Howard Jarvis Plaintiffs repeat the allegations contained  
27 in the Paragraphs above as though fully set forth herein.

28 115. The Annual Gun Harm Reduction Fee is imposed by the City of San Jose.

1 116. The Annual Gun Harm Reduction Fee is a compulsory exaction.

2 117. Article XIII C, section 1(e) of the California Constitution defines a “tax” as “any levy,  
3 charge, or exaction of any kind imposed by a local government” unless it fits one of seven limited  
4 exceptions.

5 118. Although labeled a “fee” by the City, the Annual Gun Harm Reduction Fee does not  
6 qualify for any exception from the definition of a “tax” enumerated in article XIII C, section 1(e).  
7 Therefore it is a tax.

8 119. Taxes are either “general taxes” or “special taxes.” A “special tax” is “any tax imposed  
9 for specific purposes.” (Cal. Const., art. XIII C, § 1(d).) The Annual Gun Harm Reduction Fee is  
10 imposed ostensibly for the purpose of reducing gun harm. Therefore, it is a special tax.  
11

12 120. Article XIII C, section 2(d) of the California Constitution provides, “No local  
13 government may impose, extend, or increase any special tax unless and until that tax is submitted to  
14 the electorate and approved by a two-thirds vote.”  
15

16 121. The Annual Gun Harm Reduction Fee was not submitted to the electorate  
17 or approved by a two-thirds vote. The fee is therefore invalid.  
18

19 **SEVENTH CLAIM FOR RELIEF**  
20 **Unconstitutional Delegation of Power to Tax**

21 122. Except as set forth above, the Howard Jarvis Plaintiffs repeat the allegations contained  
22 in the Paragraphs above as though fully set forth herein.

23 123. Only the government possesses the power to tax.

24 124. The power to tax includes the power to collect taxes and appropriate tax revenues.

25 125. Under the Ordinance, the Annual Gun Harm Reduction Fee will be collected by the  
26 private nonprofit organization that the City Manager will designate. That revenue will not be remitted  
27 to the City, but will be appropriated by the private organization. San Jose Municipal Code section  
28 10.32.220(C) states, “The Designated Nonprofit Organization shall spend every dollar generated from

1 the Gun Harm Reduction Fee,” and “the City shall not specifically direct how the monies from the  
2 Gun Harm Reduction Fee are expended.”

3 126. Under article XIII, section 31 of the California Constitution, the power to tax may not  
4 be granted to a private entity. It provides, “The power to tax may not be surrendered or suspended by  
5 grant or contract.” Similarly, article XI, section 11 prohibits the delegation of local powers to private  
6 entities. It prohibits “delegat[ing] to a private person or body power to make, control, appropriate,  
7 supervise, or interfere with county or municipal corporation improvements, money, or property, or to  
8 levy taxes or assessments, or perform municipal functions.”

9 127. The Ordinance unconstitutionally delegates some of the City’s power to tax  
10 and appropriate tax revenues to a private organization, not answerable to the voters,  
11 that the City Manager will designate.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray, on behalf of themselves and their members where applicable,  
14 for the following:

- 15 A. Preliminary and permanent injunctions enjoining Defendants and all successors in  
16 office from enforcing the insurance mandate, fee requirement, and related enforcement  
17 provisions in the Ordinance;
- 18 B. A declaratory judgment that the insurance mandate, fee requirement, and related  
19 enforcement provisions in the Ordinance violate the First, Second, and Fourteenth  
20 Amendments of the United States Constitution;
- 21 C. An Order invalidating sections 10.32.215 and 10.32.230(B) of chapter 10.32 of title 10  
22 of the San Jose Municipal Code;
- 23 D. Nominal damages;
- 24 E. Costs and attorneys’ fees, including those authorized by 42 U.S.C. § 1988; and  
25 F. Any other relief as this Court, in its discretion, deems just and appropriate.
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Dated: February 2, 2023

DHILLON LAW GROUP INC.

By: /s/ David A. Warrington

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# EXHIBIT A

CONTENT ARCHIVE

## ARCHIVE OF MAYOR LICCARDO'S WRITING

To view a complete archive of Mayor Liccardo's first-person writing and opinion pieces, please [visit his medium blog](#).

## MAYOR LICCARDO PHOTO ARCHIVE

To access this archive of photos featuring Mayor Liccardo -- including updated headshots -- [please visit this photostream on Flickr](#).

## MAYOR LICCARDO VIDEO ARCHIVE

For a complete archive of Mayor Liccardo's videos of special events -- like the annual State of the City events - [please visit the Mayor's Youtube channel](#).

## PRESS ROOM

# SAN JOSÉ MAYOR STATEMENT ON HISTORIC PASSING OF FIRST IN THE NATION GUN VIOLENCE REDUCTION ORDINANCE

**Post Date:** 01/25/2022 10:50 PM


**FOR IMMEDIATE RELEASE**

January 25, 2022

**Media Contact:**

Rachel Davis, Communications Director/Press Secretary, Office of Mayor Sam Liccardo,  
[rachel.davis@sanjoseca.gov](mailto:rachel.davis@sanjoseca.gov)

SAN JOSÉ, CA - Today, San José City Council voted to become the first city, state, or jurisdiction in the nation to adopt a law requiring gun owners to have insurance coverage for their firearms, and use fees paid by gun owners to invest in evidence-based initiatives to reduce gun harm. He released the following statement:

**“Tonight San José became the first city in the United States to enact an ordinance to require gun owners to purchase liability insurance, and to invest funds generated from fees paid by gun owners into evidence-based initiatives to reduce gun violence and gun harm. Thank you to my council colleagues who continue to show their commitment to reducing gun violence and its devastation in our community. I am deeply grateful also to our advocacy and legal partners with Cotchett, Pitre & McCarthy, LLP, EveryTown, Moms Demand Action, SAFE, the Gifford Law Alliance and **

**others who work tirelessly to help us craft a constitutionally compliant path to mitigate the unnecessary suffering from gun harm in our community. I look forward to supporting the efforts of others to replicate these initiatives across the nation.”**

### **Statements of Support:**

#### **Shannon Watts, Founder, Moms Demand Action**

"Following unthinkable tragedies from gun violence, San José has taken action that will save lives. Our grassroots volunteers have been proud to work hand-in-hand with the mayor, city council, and community partners to help get this innovative package of gun safety laws crafted and across the finish line."

#### **Rachel Michelson, Volunteer Leader with the California Chapter, Moms Demand Action, San José**

"Once again, San José has taken initiative to be a leader in the gun violence prevention movement. This ordinance is an innovative approach to address the costs of gun violence and incentivize safer practices that can help prevent firearm deaths and injuries. Other cities should follow San José's lead and prioritize safer cities."

#### **Ewan Barker Plummer, Volunteer Leader, Students Demand Action, Bay Area**

"This vote is a victory for gun safety. Thanks to the tireless advocacy of volunteers and commitment to gun safety from San José leaders San José is leading the charge against gun violence. We all want a safer San José, a safer California, and a safer nation. With this approach, we can move closer to that goal."

*[Return to full list >>](#)*





# EXHIBIT B



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT: GUN HARM REDUCTION  
ORDINANCE**

**DATE:** January 14, 2022

---

## **RECOMMENDATION**

Consider approving an ordinance amending Title 10 of the San José Municipal Code to add Part 6 to Chapter 10.32 to reduce gun harm by: (a) requiring gun owners to obtain and maintain liability insurance; and (b) authorizing a fee to apply to gun harm reduction programs.

## **BACKGROUND**

On June 29, 2021, the City Council directed the City Attorney to return to Council with an ordinance for Council consideration that would require every gun owner residing in the City of San José, with certain exceptions, to obtain and maintain a City-issued document evincing payment of an annual fee, and attestation of insurance coverage for unintentional firearm-related death, injury, or property damage.

Council directed that the ordinance include the following provisions:

- Compliance:
  - The gun owner shall sign and complete an insurance attestation, describing the specific policy number and issuer, and sign the attestation under penalty of perjury. Acceptable insurance coverage may include any homeowner's or renter's policy that provides for a minimum coverage amount.
  - The attestation document (or signed waiver) shall be kept wherever guns are stored or transported with the owner (in-home gun safe, in car, etc.).
- Exemptions and waivers:
  - A written, discretionary waiver of the fee requirement and the insurance coverage will be permitted for all low-income individuals who qualify under Cal. Govt. Code §68632. However, the owner must store and maintain the waiver document with the gun.
  - An exemption from these requirements for sworn law enforcement.
  - An exemption from these requirements for holders of a concealed carry weapon (CCW) permit.

HONORABLE MAYOR AND CITY COUNCIL

January 14, 2022

**Subject: Gun Harm Reduction Ordinance**

Page 2

- Penalties: Failure to comply shall constitute a civil violation subjecting the owner to the temporary or permanent seizure of the gun, and under specified circumstances, a fine.

### **ANALYSIS**

The proposed ordinance includes provisions that are in accordance with the direction from Council. The proposed ordinance authorizes an annual gun harm reduction fee to be paid by gun owners to a designated nonprofit organization that will, in turn, use the fees collected to provide certain services, as specified in the ordinance, to residents of the City who own or possess a gun or to members of their household. The proposed ordinance also authorizes the City Manager to charge and collect any and all City cost recovery fees associated with fulfilling the policies of the ordinance relating to the reduction of gun harm, including any associated third-party costs.

The recitals within the draft ordinance contain the data and other information that supports the proposed ordinance.

The effective date of the proposed ordinance will be six months from the date of adoption. This is to allow for time for the City Manager's Office to potentially do outreach, develop regulations, and work through any other issues related to the implementation of the proposed ordinance.

### **CONCLUSION**

If approved, the proposed ordinance will require, with certain exceptions, that San José residents who own firearms: (a) obtain and maintain liability insurance; (b) pay an annual gun harm reduction fee to a designated nonprofit organization that will use the fee proceeds to provide gun harm reduction services to residents of the City who own or possess a gun or to members of their household; and (c) pay any City cost recovery fees associated with program implementation, including any associated third-party costs.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **COORDINATION**

This memorandum has been coordinated with the City Manager's Office.

HONORABLE MAYOR AND CITY COUNCIL

January 14, 2022

**Subject: Gun Harm Reduction Ordinance**

Page 3

**CEQA**

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

NORA FRIMANN

City Attorney

For questions please contact Nora Frimann, City Attorney, at (408) 535-1900.

## EXHIBIT "B"

# EXHIBIT C



DAVID A. WARRINGTON  
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HARMEET DHILLON  
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July 14, 2021

**VIA ELECTRONIC AND CERTIFIED MAIL**

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San Jose, CA 95113

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[District9@sanjoseca.gov](mailto:District9@sanjoseca.gov)

Matt Mahan, City Council Dist. 10  
[District10@sanjoseca.gov](mailto:District10@sanjoseca.gov)

**Re: Ordinance Shifting the Public Burden of Criminal Behavior to Gun Owners  
Your File NO - 21-1579**

Dear Mayor and City Council,

This Firm represents the National Foundation for Gun Rights. It has come to our attention that on June 29, 2021, you voted unanimously to have the City Attorney research and draft an ordinance that would impose a mandatory fee on gun owners and require them to buy gun liability insurance. Given that the city's own press release regarding the proposed ordinance, concedes that "criminals won't obey these mandates," the City of San Jose is seeking to impose a tax on a select group of law abiding citizens simply for exercising their right to keep and bear arms.

**DHILLON LAW GROUP INC.**

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July 14, 2021

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The right to keep and bear arms of the citizens of the United States, which includes the City of San Jose, is protected by the Second Amendment to the United States Constitution, that states in pertinent part that, “the right of the people to keep and bear Arms shall not be infringed.” The proposed ordinance would be an unconstitutional infringement on that right and we are prepared to litigate to protect the Second Amendment rights of the citizens of San Jose should the City Council enact such an ordinance.

The law on this issue is clear.

The City of San Jose is prohibited from enacting laws that infringe upon the Second Amendment rights of its citizens. *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 790 (2010) (holding that the Second Amendment right is protected against infringement by the individual states through the Fourteenth Amendment); *Nordyke v. King*, 681 F.3d 1041, 1044 (9th Cir. 2012) (holding that the Second Amendment right is “fundamental and is incorporated against state and municipalities” like the City of San Jose).

Further, courts have found that the right to keep and bear arms “implies a corresponding right to obtain the bullets necessary to use them,” *Jackson v. City and County of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014). It also protects the right “to acquire and maintain proficiency in their use,” *Ezell v. Chicago*, 651 F.3d 684, 704 (7th Cir. 2011). The Second Amendment protects the implicit right to train with weapons. *District of Columbia v. Heller*, 665 U.S. 570, 617-618 (2008). It also protects the implicit right to possess ammunition. *United States v. Miller*, 307 U.S. 174, 180 (1939).

What you propose to do strikes at the very core of this fundamental right and seeks to punish (though registration<sup>1</sup> and taxation) citizens of your city who have committed no crime or offense. This type of government overreach was rejected by our Founders and the Bill of Rights was adopted in direct response to then recent examples of such conduct by the British.

First-hand experience with the British Parliament’s 1765 enactment of the Stamp Act led to the protections for the freedoms of Speech and Press found in the First Amendment. Like the tax you propose here, the Stamp Act imposed a direct tax on printed material, resulting in a selective tax imposed on those who desired to read the news or communicate with others via printed material.

Indeed, many of the Bill of Rights’ protections that citizens of the United States enjoy are a direct result of the abuses by the British Parliament and Crown in the years leading up to the Declaration of Independence, to wit: the 1774 Massachusetts Government Act – First Amendment Right to Assemble; 1774 The Quartering Act – Third Amendment; and 1774 Administration of

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<sup>1</sup> In order to implement your proposed taxation scheme, there is no doubt that a gun registration scheme will accompany it.

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Justice Act – Sixth and Seventh Amendment Right to a Jury Trial. Americans enjoy the protections of the Second Amendment today because the British attempted to confiscate the guns and ammunition of the colonist on April 19, 1775, in Concord Massachusetts.

Unfortunately, the City Council of the City of San Jose is not the first government entity that has forgotten the lessons of the Founding and attempted to use a selective tax against a fundamental constitutional right.

In 1936, the United States Supreme Court stopped the State of Louisiana from imposing a selective tax on newspapers with circulation of more than 20,000 copies per week. The Court found that this selective tax “might result in destroying both advertising and circulation.” *Grosjean v. American Press Co.*, 297 U.S. 233, 245 (1936). The Court held that the Louisiana law was “bad because ... it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guaranties.” *Grosjean* at 250. The Louisiana tax penalized certain publishers from being able to fully exercise their constitutional rights.

More recently, in 1983, the Supreme Court dealt with a case where the state tax scheme of Minnesota “singled out the press for special treatment.” *Minneapolis Star and Tribune Co. v. Minnesota Com’r of Revenue*, 460 U.S. 575, 582 (1983). The Court held that “differential treatment, unless justified by some special characteristic of the press, suggests that the goal of the regulation is not unrelated to suppression of expression, and such a goal is presumptively unconstitutional.” *Minneapolis Star* at 585.

There is no “special characteristic” of the law abiding gun owner that would justify imposition of a special tax, therefore, as in *Minneapolis Star*, it is easily understood that the goal of the proposed ordinance is to suppress and discourage the exercise of the right to keep and bear arms and that goal is “presumptively unconstitutional.” *See id.*

Simply put, a discriminatory tax that singles out citizens exercising their constitutional rights is unconstitutional.

Please be advised that should you pass the proposed ordinance and blatantly violate the constitutional rights of the residents of San Jose, my clients have authorized our firm to file a lawsuit against the City to protect the constitutional rights of their members. This lawsuit will be brought pursuant to 42 U.S.C. §1983 for the deprivation of constitutional rights. As such, once we prevail in protecting the residents of San Jose’s constitutional rights, our firm will then seek our reasonable attorney fees under 42 U.S.C. §1988(b).

We thereby strongly encourage you to reconsider moving forward with the proposed ordinance.

**DHILLON LAW GROUP INC.**

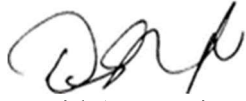
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Regards,



David A. Warrington



Harmeet K. Dhillon

*Counsel for the National Foundation for Gun Rights*

Cc: National Foundation for Gun Rights

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# EXHIBIT D



# Memorandum

**TO:** HONORABLE CITY COUNCIL

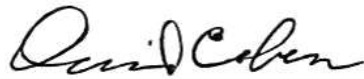
**FROM:** Mayor Liccardo,  
Vice Mayor Jones,  
Councilmember Cohen  
Councilmember Carrasco

**SUBJECT:** SEE BELOW

**DATE:** 01/21/2022

Approved 

Date 01/21/2022



**DIRECTION:**

1. Establish that the gun harm reduction fee in the initial year shall amount to \$25 per gun-owning household—or an approximate amount close to \$25 that assists with the rounding of the final fee—plus that amount strictly reflecting only the administrative cost incurred by:
  - a. The Designated Non-profit Organization,
  - b. The State of California for its use of the Department of Justice’s Automated Firearm System and/or California Firearms Application Reporting System to communicate legal obligations and available services to gun-owning residents in San Jose, and
  - c. The City, if any.
  
2. Determine that until or unless the Council determines otherwise,
  - a. The City shall not be engaged in the collection of fees, the transmittal of information through the Department of Justice Database, nor the accounting nor distribution of the funds.
  - b. After the initial implementation of the ordinance, the City’s role will remain largely limited to setting the fee, engaging in contractual arrangements with the State of California and other entities necessary for the implementation of the ordinance, and enforcement.
  - c. All administrative tasks shall be the responsibility of the Designated Nonprofit Organization, and all administrative costs shall be borne by that organization, and recovered by a portion of the fee revenue.

- d. No fees shall be collected nor required of any gun owner until the City Attorney has determined that there is resolution of pending facial legal challenges to the ordinance for any claim which is not *res judicata*, that is, for any claim that is not precluded by a prior final judgment.
3. Approve the proposed ordinance, with modifications in the following sections:
    - a. Expenditure of Gun Harm Reduction Fee, Section 10.32.220
      - Insert the following italicized language into A. to read, “All monies from the Gun Harm Reduction Fee shall be expended by the Designated Nonprofit Organization on providing services to residents of the City that own or possess a Firearm in the City or to members of their household, *or to those with whom they have a close familial or intimate relationship.*”
      - Insert within the itemized list under A., “Addiction intervention and substance abuse treatment”
      - Revise provisions under C. to read: “*C. The Designated Nonprofit Organization shall spend every dollar generated from the Gun Harm Reduction Fee, minus administrative expenses, exclusively for programs and initiatives designed to (a) reduce the risk or likelihood of harm from the use of firearms in the City of San José, and (b) mitigate the risk of physical harm or financial, civil, or criminal liability that a San José firearm owner or her family will incur through her possession of firearms. Otherwise, the City shall not specifically direct how the monies from the Gun Harm Reduction Fee are expended*”
    - b. Exceptions, Section 10.32.225
      - Insert the following italicized language into B. to read, “Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155, *for as long as these statutes are legally enforceable.*”
    - c. Compliance, Section 10.32.230
      - Delete the following stricken language and insert the italicized language into A. to read, “Each person required to obtain and maintain insurance under Section 10.32.210 shall demonstrate compliance with the insurance requirement by completing and executing a City-designated attestation form. Each such person shall state both the name of the insurance company issuing the policy and the number of the insurance policy on the attestation form, sign the form under penalty of perjury and keep the attestation form with the Firearms where they are being stored or transported. ~~There is no requirement to submit the attestation form to the City. However, each~~ *Each person shall complete and sign a new attestation form under penalty of perjury in the event any of the information on the form changes. Each person shall present the form when lawfully requested to do so by a peace officer who knows or has reason to believe that a person possesses a firearm.*”
    - d. Purpose and Findings, 10.32.200
      - Among the findings listed in B., add:

- “Based upon a November 2021 analysis by Dr. Ted Miller, Ph.D. and the Pacific for Institute Research and Evaluation (PIRE), on average, 206 people suffer death or serious injury from gunshots each year in the City of San José.
- Conservatively, San José taxpayers annually spend approximately \$39.7 million, or approximately \$151 per firearm-owning household, to respond to gun violence with such public services as emergency police and medical response, victim assistance, incident investigation, acute and long-term health care, and perpetrator adjudication and judicial sanctioning.
- Including private costs to individuals and families in the calculation, San José residents incur an annual financial burden of \$442 million per year for gun deaths and injuries.”

### **DISCUSSION:**

When our current pandemic passes, an epidemic of gun violence will continue to take its grim toll throughout our nation. In response, we propose that the City of San Jose become the first city—or U.S. jurisdiction—to use liability insurance and a fee-supported non-profit organization to reduce gun violence and harm. We consider the merits for each of these two elements.

#### **Insurance**

Requiring every gun owner in my city to carry liability insurance will better compensate unintentional shooting victims and their families for medical and related expenses. More importantly, insurance can also incentivize safer gun ownership. Risk-adjusted premiums can—and in some cases, do—reduce the risk of gun harm, by encouraging firearm owners to take gun-safety courses, use gun safes, install child-safe trigger locks, or utilize chamber-load indicators. Unintentional shootings—often involving children—annually claim the lives of 500 Americans and injure another 26,000. We should apply the lessons of the insurance industry’s impact on auto safety: reducing premiums on policyholders who drive more safely or buy cars with airbags or anti-lock brakes helped to [reduce per-mile auto fatalities by 80% over the past five decades](#), saving 3.5 million lives. We need a similar approach to address unintentional firearm risk, because we live in a nation in which [4.6 million children live in a household where a gun is kept unlocked and loaded](#), and 72% of gun injuries occur at home, resulting in too many child victims. As in other contexts, an insurance requirement can help make our community safer.

#### **Fees and Investment in Evidence-Based Prevention**

Second, we propose the payment of a modest fee to support evidence-based community-led initiatives to reduce the harm of gun violence in our community, such as through domestic violence and suicide prevention efforts, gun-safety classes, mental health services, and addiction intervention.

Why should the funding nonprofit focus these services for occupants of gun-owning households? Because that’s where the greatest risk is. [Epidemiological studies](#) show that even a properly stored firearm in the home [doubles occupants’ risk of becoming a victim of homicide and triples the likelihood of suicide](#). A more recent Stanford study concluded that male handgun owners may be [eight times more likely to commit suicide by gun than other men, and gun-](#)

[owning women are 35 times more likely to do so than their gender peers](#). Prioritizing those investments for residents living with guns in the home will provide the most direct path for reducing gun harm.

Some gun owners will express the view that the 2<sup>nd</sup> Amendment renders any imposition of a gun-related fee unconstitutional. While the Second Amendment protects the rights of citizens to own guns, it doesn't require the public to subsidize gun ownership. [Every day, our taxpaying residents bear the financial burden](#) for police officers, ambulances, and trauma surgeons to respond to gun violence. These direct costs of gun violence to San Jose taxpayers--to say nothing of the human and financial toll to victims' families—exceeds \$39 million annually, and [\\$1.4 billion for all Californians](#). Using fees to fund initiatives to reduce gun violence reduces the financial burdens of gun use on all of us.

Moreover, [courts have long upheld the imposition of taxes on the purchase of guns and ammunition](#) ever since Congress imposed the federal gun tax in 1919. This history affirms the consistent position of courts to allow the imposition of modest fees on the exercise of constitutional rights, such as [IRS filing fees on the formation of nonprofit advocacy organizations](#) (1<sup>st</sup> Amendment), [taxes on newspapers](#) (1<sup>st</sup> Amendment), and court filing fees (7<sup>th</sup> Amendment), the cost of counsel for defendants of financial means (6<sup>th</sup> Amendment), or on filing to become a [candidate for elected office](#) (1<sup>st</sup> and 14<sup>th</sup> Amendments). The constitutional question is whether a modest fee substantially burdens the exercise of that right. Given that we provide an explicit exemption for those unable to pay, it imposes no such burden.

We are grateful for the many community leaders and experts—such as NextDoor Solutions to Domestic Violence CEO Esther Peralez-Dieckman, Health Trust CEO Michele Lew, Gardner Healthcare CEO Reymundo Espinoza, Stanford University Medical Center Epidemiologist Dr. Julie Parsonnet, National Rifle Association San Jose Chapter President Dave Truslow, Community Health Partnership CEO Dolores Alvarado and Deputy Director Cathryn Hyde, and Brady United Director Shikha Hamilton, and Moms Demand Action California Chapter representative Rachel Michelson, and SAFE Legislative Affairs Director Dr. Susie MacLean MD, who have stepped up to advise or participate in the creation of a nonprofit organization that will identify high-impact violence reduction programs for investment.

## **Compliance**

The ordinance will impose fines and other administrative sanctions on violators. Of course, criminals won't obey insurance or fee mandates. Yet, given the [legally frail status of concealed-carry regulations before the current U.S. Supreme Court](#), we will likely see many more guns out on the street—and in bars, nightclubs, and other contexts that will increase our peril. Law enforcement agencies face steep challenges keeping communities safe amid the ubiquitous presence of guns in America. Members of the California legislature are exploring bills to have law enforcement agencies seize guns as a sanction for violations of local gun regulations, with subsequent restoration of ownership as required by constitutional due process. Giving the police the ability to distinguish the scofflaws from law-abiding gun owners could provide a lawful basis for forfeiture of the gun in a context—where an officer responds to a bar brawl or domestic violence allegation—where even temporarily extracting a gun from a combustible situation could dramatically reduce the risk of deadly violence.

## **Thanks**



Our gratitude goes to City Attorney Nora Frimann, Terra Chaffee, and the rest of her team for their extensive research and work in fashioning this ordinance, and to Christina Guimera and Paul Pereira in the Mayor’s office for their mighty efforts to bring forward this initiative, and to convene partners to help.

In addition to those community leaders mentioned above, we also thank the many supporters, advocates, thought partners, and active partners of this initiative, including Rachel Michelson, Yvonne Murray, Maria Ines Ortega Barrera, and all of the volunteers and staff at Mom’s Demand Action, Everytown, Brady United, and many of our Project Hope community leaders. We also thank local leaders who have stepped up to offer critical help, including District Attorney Jeff Rosen, Assemblymember Phil Ting and his lead expert on staff, Mark Chekal-Bain, Senator Josh Becker, California Attorney General Rob Bonta and his team, and Golden State Warriors Coach Steve Kerr.

We are deeply appreciative of the philanthropic support of the policy and research work necessary for the crafting of this initiative by the Heising-Simons Foundation—particularly Deanna Gomby and Holly Kreider—and by SV Angel CEO Ron Conway. We also appreciate the willingness of the Silicon Valley Community Foundation to serve as a fiscal agent for these funds.

Finally, we offer our very deep gratitude to the *pro bono* efforts of our legal team, led by Joe Cotchett and Tamarah Prevost of Cotchett, Pitre & McCarthy, LLP. We have had great support, advice, research, and legal assistance provided by Allison Anderman and Esther Sanchez-Gomez at the Giffords Law Center to Prevent Gun Violence; Tanya Schardt and Steve Lindley at Brady United; UC Berkeley School of Law Dean Erwin Chemerinsky; Stanford Law Professor and Economist John J. Donohue III; Michael Redding, John Marsh, and team at the California Attorney General’s office, and Keker, Van Nest & Peters LLP.

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member’s staff, concerning any action discussed in the memorandum, and that each signer’s staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member’s staff.*



# EXHIBIT E

NVF:TLC:KML  
2/3/2022

ORD. NO. 30716

## ORDINANCE NO. 30716

### AN ORDINANCE OF THE CITY OF SAN JOSE ADDING PART 6 TO CHAPTER 10.32 OF TITLE 10 OF THE SAN JOSE MUNICIPAL CODE TO REDUCE GUN HARM BY REQUIRING GUN OWNERS TO OBTAIN AND MAINTAIN LIABILITY INSURANCE AND ESTABLISHMENT OF ANNUAL GUN HARM REDUCTION FEE

**WHEREAS**, the Constitution of the United States of America affords certain protections to the ownership of firearms; and

**WHEREAS**, the United States Supreme Court has recognized that the Constitutional protections related to firearms ownership are not unlimited, and can be subject to certain types of governmental regulations; and

**WHEREAS**, a city's police power includes the power to regulate firearms and many courts throughout the nation have upheld local regulations related to the ownership or possession of firearms; and

**WHEREAS**, firearm injuries have a significant adverse public health and safety impact nationally, in the State of California, and locally; and

**WHEREAS**, each year more than 23,000 United States residents die by firearm suicide, 14,000 die by firearm homicide, and nearly 500 die from unintentional firearm injuries; and

**WHEREAS**, in California, between 2005 and 2015, nearly 4,000 children and teenagers were killed or injured with firearms, and 533 children and teenagers committed suicide with firearms, according to data from the Center for Disease Control and Prevention; and

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2/3/2022

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**WHEREAS**, the Santa Clara County Public Health Department issued a report on firearm injuries in April 2018. In 2016, 11% of injury deaths were due to firearms injuries. During the period 2007-2016, there were an average of 46 deaths per year due to self-inflicted/suicide from firearms injuries, and an average of 28 deaths per year due to assault/homicide from firearms injuries. Self-inflicted/suicide accounted for the highest percentage of deaths (59%) from firearms injuries, with assault/homicide accounting for 36% of deaths from firearm injuries; and

**WHEREAS**, the April 2018 Santa Clara County Public Health Department report on firearm injuries reported that during the period from 2010-2014, there were an annual average of 28 emergency department visits and 12 hospitalizations due to unintentional firearms injuries. During 2010-2014, 31% of emergency department visits and 16% of hospitalizations from firearms injuries were due to unintentional shootings; and

**WHEREAS**, research published in the American Journal of Epidemiology in 2004 found that regardless of storage practice, type of gun, or number of firearms in the home, having a gun in the home was associated with an increased risk of firearm homicide and firearm suicide in the home; and

**WHEREAS**, a 2014 review in the Annals of Internal Medicine suggests that access to firearms within the home doubles the risk that family members will become a victim of homicide, and triples the risk of suicide; and

**WHEREAS**, a study in the New England Journal of Medicine in 2020 found that handgun ownership is associated with eight times greater likelihood for firearm suicide among men, and 35 times greater likelihood of firearm suicide among women; and

**WHEREAS**, according to the American Academy of Pediatrics, in homes with guns, suicide rates in children and adolescents and the likelihood of accidental death by shooting are each four times higher than in homes without guns; and

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**WHEREAS**, in the past decade, 40% of the suicides committed by children and teens involved guns, and 90% of these suicides were with guns that the victims accessed at their own homes or from a relative's home; and

**WHEREAS**, 58% of shooting deaths in children and teens are homicides, and the risk of homicide is three times higher when there are guns in the home; and

**WHEREAS**, a June 2014 report published by Everytown for Gun Safety and Moms Demand Action which analyzed publicly reported gun deaths nation-wide over a one-year period from December 15, 2012 to December 12, 2013, showed that at least 100 children were killed in unintentional shootings, amounting to nearly two each week; and

**WHEREAS**, according to research published in Social Science and Medicine in 2007 based on data over a three-year study period from 2001 to 2003, states with higher rates of household firearm ownership had higher rates of firearm homicide but not of non-firearm homicide, and this relationship held across gender, age, income and multiple other variables; and

**WHEREAS**, a study in the Journal of Urban Health conducted in 2015 estimated there are as many as 4.6 million children in the United States living in homes with loaded unsecured guns; and

**WHEREAS**, injuries from unintentional shootings, which are generally insurable, comprise more than a third of all gun-related injuries nationally; and

**WHEREAS**, in some instances, gun owners have been successfully sued for harm resulting from the use of the owner's firearm by themselves or a third party; and

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2/3/2022

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**WHEREAS**, auto insurers have used risk-adjusted premiums to reward good driving and incentivize use of airbags and other safety features, and by using a comprehensive public health approach to car safety the United States reduced per-mile auto fatalities by nearly 80% from 1967 to 2017; and

**WHEREAS**, similarly, insurance-based mechanisms can encourage firearm owners to take safety classes, use gun safes, install trigger locks, or utilize chamber-load indicators, and according to 2018 research published in The Actuary there is evidence that some actuaries and insurance companies are recognizing firearm-related risk through their product offerings, pricing and underwriting decisions; and

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** Chapter 10.32 of Title 10 of the San José Municipal Code is hereby amended by adding a Part to be numbered, entitled and to read as follows:

## Part 6

### REDUCTION OF GUN HARM – LIABILITY INSURANCE REQUIREMENT AND GUN HARM REDUCTION FEE

#### 10.32.200 Purpose and Findings

- A. This Part is passed and adopted in the exercise of the police power of the City, and for the protection of the welfare, peace and comfort of the residents of the City of San José. Specifically, it is the intent of this Ordinance to reduce gun harm.
- B. Findings:
1. Firearm injuries have a significant adverse public health and safety impact nationally, in the State of California, and locally; and
  2. Each year more than twenty-three thousand (23,000) United States residents die by firearm suicide, fourteen thousand (14,000) die by firearm homicide, and nearly five hundred (500) die from unintentional firearm injuries; and
  3. In California, between 2005 and 2015, nearly four thousand (4,000) children and teenagers were killed or injured with firearms, and five hundred thirty-three (533) children and teenagers committed suicide with firearms, according to data from the Center for Disease Control and Prevention; and
  4. During 2010-2014 in Santa Clara County, thirty-one percent (31%) of emergency department visits and sixteen percent (16%) of

hospitalizations from firearms injuries were due to unintentional shootings; and

5. A 2014 review in the Annals of Internal Medicine suggests that access to firearms within the home doubles the risk that family members will become a victim of homicide, and triples the risk of suicide; and
6. A study in the New England Journal of Medicine in 2020 found that handgun ownership is associated with eight (8) times greater likelihood for firearm suicide among men, and thirty-five (35) times greater likelihood of firearm suicide among women; and
7. Based upon a November 2021 analysis by Dr. Ted Miller, Ph.D. and the Pacific for Institute Research and Evaluation (PIRE), on average, 206 people suffer death or serious injury from gunshots each year in the City of San José; and
8. Conservatively, San José taxpayers annually spend approximately \$39.7 million, or approximately \$151 per firearm-owning household, to respond to gun violence with such public services as emergency police and medical response, victim assistance, incident investigation, acute and long-term health care, and perpetrator adjudication and judicial sanctioning; and
9. Including private costs to individuals and families in the calculation, San José residents incur an annual financial burden of \$442 million per year for gun deaths and injuries; and
10. Injuries from unintentional shootings, which are generally insurable, comprise more than a third of all gun-related injuries nationally; and

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2/3/2022

ORD. NO. 30716

11. Auto insurers have used risk-adjusted premiums to reward good driving and incentivize use of airbags and other safety features, and by using a comprehensive public health approach to car safety the United States reduced per-mile auto fatalities by nearly eighty percent (80%) from 1967 to 2017; and
12. Liability insurance can reduce the number of gun incidents by encouraging safer behavior and it can also provide coverage for losses and damages related to gun incidents; and
13. Programs and services to gun owners and their households can also encourage safer behavior, and provide education and resources to those residents.

#### **10.32.205 Definitions**

As used in this Part, the following terms have the following meaning:

- A. “Firearm” means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. Firearm does not include antique firearms as defined by 18 U.S.C. Section 921(a).
- B. “Designated Nonprofit Organization” means an entity that qualifies as a nonprofit corporation under the federal internal revenue code and is designated pursuant to the City Manager’s authority under Section 10.32.235. No City official or employee shall sit on the board of directors of the Designated Nonprofit Organization.

#### **10.32.210 Liability Insurance Required**



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- A. Insurance required. A person who resides in the City and owns or possesses a Firearm in the City shall obtain and continuously maintain in full force and effect a homeowner's, renter's or gun liability insurance policy from an admitted insurer or insurer as defined by the California Insurance Code, specifically covering losses or damages resulting from any accidental use of the Firearm, including but not limited to death, injury or property damage.
- B. For purposes of this Section, a person shall be deemed to be the owner of a Firearm if such Firearm is lost or stolen until such loss or theft is reported to the police department or sheriff which has jurisdiction in which such Firearm owner resides.
- C. Any person who owns a Firearm on the effective date of this Section shall obtain the insurance required by this Section within thirty (30) days of the effective date of this Ordinance, or by a later date certain established in the regulations promulgated by City Manager pursuant to Section 10.32.235.

**10.32.215 Annual Gun Harm Reduction Fee**

A person who resides in the City and owns or possesses a Firearm in the City shall pay an Annual Gun Harm Reduction Fee to the Designated Nonprofit Organization each year. The date by which payment shall be made annually shall be established in the regulations promulgated by City Manager pursuant to Section 10.32.235. The annual fee will be set forth in the schedule of fees and charges established by resolution of the City Council.

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2/3/2022

ORD. NO. 30716

**10.32.220 Expenditure of Gun Harm Reduction Fee**

- A. All monies from the Gun Harm Reduction Fee shall be expended by the Designated Nonprofit Organization on providing services to residents of the City that own or possess a Firearm in the City, to members of their household, or to those with whom they have a close familial or intimate relationship. Such expenditures may include, but are not necessarily limited to the following:
1. Suicide prevention services or programs;
  2. Violence reduction or gender based violence services or programs;
  3. Addiction intervention and substance abuse treatment;
  4. Mental health services related to gun violence; or
  5. Firearms safety education or training.
- B. No portion of the monies from the Gun Harm Reduction Fee shall be used for litigation, political advocacy, or lobbying activities.
- C. The Designated Nonprofit Organization shall spend every dollar generated from the Gun Harm Reduction Fee, minus administrative expenses, exclusively for programs and initiatives designed to (a) reduce the risk or likelihood of harm from the use of firearms in the City of San José, and (b) mitigate the risk of physical harm or financial, civil, or criminal liability that a San José firearm owner or her family will incur through her possession of firearms. Otherwise, the City shall not specifically direct how the monies from the Gun Harm Reduction Fee are expended.

- D. The designated non-profit shall provide a biannual report to an appropriate council committee and the report may also be provided to the City Council, as directed by the council committee.

**10.32.225 Exceptions**

The provisions of this Part shall not apply to any of the following:

- A. Those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers.
- B. Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable.
- C. Those persons for which compliance with this Part would create a financial hardship.

**10.32.230 Compliance**

- A. Insurance requirement. Each person required to obtain and maintain insurance under Section 10.32.210 shall demonstrate compliance with the insurance requirement by completing and executing a City-designated attestation form. Each such person shall state both the name of the insurance company issuing the policy and the number of the insurance policy on the attestation form, sign the form under penalty of perjury and keep the attestation form with the Firearms where they are being stored or transported. Each person shall complete and sign a new attestation form under penalty of perjury in the event any of the information on the form changes. Each person shall present the form when

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2/3/2022

ORD. NO. 30716

lawfully requested to do so by a peace officer who knows or has reason to believe that a person possesses a firearm.

- B. Fee provisions. Each person shall affix proof of payment of the annual Gun Harm Reduction Fee to the attestation form and keep it with the Firearm or Firearms where they are being stored or transported.

**10.32.235 Authority of the City Manager**

- A. The City Manager is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Part relating to the reduction of gun harm, including, but not limited, to the following subjects:
  - 1. Processes and procedures related to the implementation of the liability insurance requirement, and forms necessary thereto.
  - 2. Designation of the nonprofit organization that will receive the Gun Harm Reduction Fee, any processes and procedures related to the payment of the fee, and any additional guidelines or auditing of the use of the monies from the fee.
  - 3. Designation of any third-party agency and/or organization that will aid in the implementation of the noticing of the requirements of this Part or any other administrative tasks related to the requirements of this Part.
  - 4. The criteria by which a person can claim a financial hardship exemption from this Part pursuant to Section 10.32.225.C.
- B. Regulations shall be published on the City's website.

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- C. Regulations promulgated by the City Manager shall have the same force and effect of law. Unless a later date is specified in a regulation, a regulation shall become effective upon date of publication.

**10.32.240 Enforcement**

- A. Any violation of this Part shall be punishable by an administrative citation in accordance with the procedures set forth in Chapter 1.15 of Title 1 of this Code relating to the issuance of administrative citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing.
- B. The amounts of the fines for violations imposed pursuant to this Part shall be set forth in the schedule of fines established by resolution of the City Council.
- C. A violation of this Part is also enforceable through all other civil and administrative remedies available to the City.

**10.32.245 Impoundment**

To the extent allowed by law, the Firearm or Firearms of a person that is not in compliance with this Part may be impounded subject to a due process hearing.

**10.32.250 Fees and Charges**

The City Manager is hereby authorized to charge and collect any and all cost recovery fees associated with fulfilling the policies of this Part relating to the reduction of gun harm, including any associated third-party costs. All fees shall be as set forth in the schedule of fees and charges established by resolution of the City Council.

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**SECTION 2.** This Ordinance shall become effective at the expiration of one hundred eighty (180) days after its adoption.

**SECTION 3.** Consistent with Section 1.04.160 of the San José Municipal Code, should any provision of this Ordinance or its application to any person or circumstance be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**SECTION 4.** The City Council of the City of San José takes action on this Ordinance based upon the totality of the administrative record including the facts stated above, the facts stated in the memorandums to the City Council for the January 25, 2022 City Council Meeting, as well as any oral or written testimony at the January 25, 2022 City Council meeting.

NVF:TLC:KML  
2/3/2022

ORD. NO. 30716

**PASSED FOR PUBLICATION of title this 25<sup>th</sup> day of January, 2022, by the following bifurcated vote:**

**Including Insurance Requirements; Excluding Sections 10.32.215, 10.32.220, and 10.32.230(b)**

AYES: ARENAS, CARRASCO, COHEN, ESPARZA, FOLEY, JONES, JIMENEZ, MAHAN, PERALEZ, LICCARDO.

NOES: DAVIS.

ABSENT: NONE.

DISQUALIFIED: NONE.

**PASSED FOR PUBLICATION of title this 25<sup>th</sup> day of January, 2022, by the following bifurcated vote:**

**Excluding Insurance Requirements; Sections 10.32.215, 10.32.220, and 10.32.230(b) only:**

AYES: ARENAS, CARRASCO, COHEN, ESPARZA, JONES, JIMENEZ, PERALEZ, LICCARDO.

NOES: DAVIS, FOLEY, MAHAN.

ABSENT: NONE.

DISQUALIFIED: NONE.

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

# Exhibit F



## BAY AREA

# Gun owners in San Jose must buy liability insurance under newly passed first-in-the-nation law

Lauren Hernández

Jan. 25, 2022 Updated: Jan. 26, 2022 6:03 p.m.



This file photograph shows San Jose Mayor Sam Liccardo on Tuesday, March 24, 2015, in San Jose, Calif. Santiago Mejia/The Chronicle

The San Jose City Council adopted a measure Tuesday night requiring gun owners in the South Bay city to buy liability insurance for their firearms, city officials said.

The ordinance — which city officials said marks the first such law for a city, state or other jurisdiction in the country — also calls for gun owners to pay fees that will be invested “into evidence-based initiatives to reduce gun violence and gun harm,” San Jose Mayor Sam Liccardo said in a statement on Tuesday night.

According to the ordinance, “A person who resides in the City and owns or possesses a Firearm in the City shall obtain and continuously maintain in full force and effect a homeowner’s, renter’s or gun liability insurance policy from an admitted insurer or insurer as defined by the California Insurance Code, specifically covering losses or

damages resulting from any negligent or accidental use of the Firearm, including but not limited to death, injury or property damage.”

Residents who do not comply could have their firearms confiscated under the new law, which takes effect in six months.

The ordinance notes that each year 23,000 people in the U.S. die by firearm suicide, 14,000 die by firearm homicide and another 500 die from unintentional gun injuries.



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Liccardo thanked the council and advocacy groups including Moms Demand Action, SAFE, the Gifford Law Alliance and others for their commitment to “reducing gun violence and devastation in our community.”

Liccardo said these groups helped “craft a constitutionally compliant path to mitigate the unnecessary suffering from gun harm in our community.” He said that he will support other jurisdictions who choose to launch similar ordinances across the United States.

Shannon Watts, the founder of Moms Demand Action, said in a statement that the ordinance will “save lives.”

Ewan Barker Plummer, volunteer leader with the Bay Area chapter of Students Demand Action said the vote was “a victory for gun safety.”

“We all want a safer San Jose, a safer California, and a safer nation,” Barker Plummer said. “With this approach, we can move closer to that goal.”

*Lauren Hernández is a San Francisco Chronicle staff writer.*

*Email: [lauren.hernandez@sfchronicle.com](mailto:lauren.hernandez@sfchronicle.com) Twitter: @ByLHernandez*

Written By

[Lauren Hernández](#)

Reach Lauren on

Lauren Hernández joined The San Francisco Chronicle in 2018. She covers breaking news, crime and general news. Previously, she was a breaking news reporter for the USA TODAY Network's Statesman Journal in Salem, Oregon. She studied journalism at San Jose State University. She is a member of the National Association of Hispanic Journalists. Hernández has bylines in the Silicon Valley Business Journal and The Desert Sun. Her journalism has received awards in California and Oregon.

## EXHIBIT "G"

# Exhibit G

# Los Angeles Times

## San Jose approves first law in U.S. requiring gun owners to have insurance



San Jose Mayor Sam Liccardo speaks during a news conference in May 2021 after nine people died in a shooting in his city. (Associated Press)

BY OLGA R. RODRIGUEZ AND JULIET WILLIAMS  
ASSOCIATED PRESS

JAN. 25, 2022 **UPDATED** 11:08 PM PT

The city of San Jose voted Tuesday night to require gun owners to carry liability insurance in what's believed to be the first measure of its kind in the United States.

The San Jose City Council overwhelmingly approved the measure despite opposition from some gun owners who said it would violate their 2nd Amendment rights.

The council also voted to require thousands of gun owners in the city to pay a small fee, which would be used for firearm safety education and services such as domestic violence prevention and mental health services.

The proposal seeks to reduce gun violence in the San Francisco Bay Area city.

# Exhibit H





**CITY MANAGER REGULATIONS  
FOR  
THE GUN HARM REDUCTION ORDINANCE**

**Issued by the City Manager**

*Sarah Zarate*

Sarah Zarate  
Director of Administration, Policy, and Intergovernmental Relations  
Office of the City Manager

**EFFECTIVE: October 21, 2022**

## **PART I - GENERAL PROVISIONS**

### **SECTION 1-1. PURPOSE AND AUTHORITY**

The Gun Harm Reduction Ordinance, set forth in Title 10, Chapter 10.32, Part 6 of the San José Municipal Code (“SJMC” or “Code”), provides that individuals who own or possess firearms and reside in the City of San José (“City”) must maintain liability insurance covering losses or damages resulting from any accidental use of their firearm and pay an annual gun harm reduction fee. These regulations implement the provisions of SJMC Chapter 10.32, Part 6 and are issued by the City Manager under the authorization granted pursuant to SJMC Section 10.32.235. These regulations are not intended to be exhaustive and can be amended at any time by the City Manager. These regulations shall be referred to as the “City Manager Regulations for the Gun Harm Reduction Ordinance.”

### **SECTION 1-2. DEFINITIONS AND CONSTRUCTION**

The definitions set forth in SJMC Chapter 10.32 Part 6, and herein, shall govern the application and interpretation of these regulations. Any reference to federal, state or local statutes and ordinances includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute, ordinance or regulatory provision.

## **PART II – IMPLEMENTATION TIMELINE**

### **SECTION 2-1. LIABILITY INSURANCE REQUIREMENT OPERATIVE DATE**

Firearm owners residing in San José who are required by SJMC section 10.32.210 to obtain liability insurance shall obtain such insurance by January 1, 2023.

### **SECTION 2-2. ANNUAL GUN HARM REDUCTION FEE PAYMENT DATE**

SJMC section 10.32.215 provides that the date by which payment of the Gun Harm Reduction Fee shall be made annually will be set by regulations promulgated by the City Manager. This version of the City Manager Regulations for the Reduction of Gun Harm Ordinance does not set a payment date; a payment date will be established in an amended version of these regulations to be issued in the future. Individuals covered by the Gun Harm Reduction Fee are not required to pay the fee until a payment date is set through the amended regulations.

## **PART III – INSURANCE REQUIREMENT ATTESTATION FORM**

### **SECTION 3-1. INSURANCE REQUIREMENT ATTESTATION FORM ESTABLISHED**

Individuals subject to the insurance requirement must demonstrate compliance with the requirement by completing and executing an Attestation Form. The form included with these regulations as Exhibit A shall be used for this purpose. The attestation form shall be kept with the subject individual’s firearm(s) where they are being stored or transported.

## **PART IV – EXEMPTIONS**

### **SECTION 4-1. PEACE OFFICER EXEMPTION**

SJMC section 10.32.225 provides that those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers are exempted from the Gun Harm Reduction Ordinance. In any instance where they would otherwise be required to present the attestation form to demonstrate compliance with the ordinance, a person claiming the peace officer exemption must instead present a valid identification card, issued by a law enforcement agency, that indicates that the person claiming the exemption is a peace officer. If an individual claiming this exemption cannot present a valid identification card as described above, then they are not covered by the exemption and are subject to the requirements of the ordinance.

### **SECTION 4-2. CONCEALED WEAPON LICENSE EXEMPTION**

SJMC section 10.32.225 provides that those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155 are exempted from the Gun Harm Reduction Ordinance. In any instance where they would otherwise be required to present the attestation form to demonstrate compliance with the ordinance, any person claiming the concealed weapon license exemption must instead present their license to carry a concealed weapon. If an individual claiming this exemption cannot present their license, then they are not covered by the exemption and are subject to the requirements of the ordinance.

### **SECTION 4-3. FINANCIAL HARDSHIP EXEMPTION**

SJMC section 10.32.225 provides that those persons for which compliance with the Gun Harm Reduction Ordinance would create a financial hardship are exempted from the ordinance. SJMC section 10.32.235 provides that the criteria by which a person can claim a financial hardship exemption shall be defined through regulations issued by the City Manager.

An individual qualifies for financial hardship if their household income is at or below the Extremely Low Income threshold for Santa Clara County, adjusted for household size, according to the Area Median Income (AMI) calculations released annually by the California Department of Housing and Community Development (HCD). (The Extremely Low Income threshold is set at 30% of AMI.) HCD does not calculate the Extremely Low Income threshold for households of nine individuals or larger. For these households, the financial hardship standard shall be calculated by taking the difference between the threshold for households of eight individuals and households of seven individuals, multiplying the difference by the number of individuals in the household in excess of eight, and adding the product to the Extremely Low Income threshold for a household of eight individuals.

To claim the financial hardship exemption, individuals must state their gross household income and the size of their household on the Attestation Form to show that they meet the hardship threshold, and sign the form under penalty of perjury. They must also attach a copy of their

San José Police Department  
Permits Unit  
(408) 277-4452  
<https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance>

CITY MANAGER REGULATIONS FOR  
GUN HARM REDUCTION ORDINANCE  
**EFFECTIVE: October 21, 2022**  
Page 4 of 6

current Federal Income Tax Return (form 1040) to the Attestation Form. The Social Security number on the form 1040 should be redacted.

## **PART V – ENFORCEMENT**

### **SECTION 5-1. ADMINISTRATIVE CITATIONS**

Gun owners in San José found to be in violation of the Gun Harm Reduction Ordinance and who cannot show proof that they qualify for an exemption from the ordinance, as specified in Part IV of these regulations, will be subject to an administrative citation and associated fine, as specified in SJMC section 10.32.240.

# Exhibit A



## Gun Liability Insurance Attestation Form

| Section 1: Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                 |                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------|
| <p>To be compliant with the Gun Harm Reduction Ordinance, gun owners and those in possession of guns must have a current homeowner's, renter's or gun liability insurance policy for their firearm(s) and ensure that the policy covers losses or damages resulting from accidental use of the firearm, including but not limited to death, injury, or property damage. Exemptions are listed below.</p> <p><b>Gun owners and those in possession of guns in the City of San José must complete the below insurance attestation form by January 1, 2023. The form must be accurately completed and kept with the firearm(s) at all times. It does not need to be submitted to the City.</b></p> <p>Non-compliance may result in fines. For more information about San José's Gun Harm Reduction Ordinance, and City Manager issued regulations, go to: <a href="https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance">https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance</a></p> <p>Description of exemptions:</p> <p>A. Those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. <i>(Need to provide proof of eligibility for the exemption - show ID from issuing agency upon request; police to verify employment upon contact)</i></p> <p>B. Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. <i>(Need to provide proof of eligibility for the exemption – show CCW license upon request)</i></p> <p>C. Those persons for which compliance with this Part would create a financial hardship. (See back side of form)</p> |                 |                  |
| Section 2: Exemptions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                 |                  |
| I claim the following exemption because: (Please select one)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |                  |
| <input type="checkbox"/> A. I am designated as a peace officer pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. <i>(I will show ID from issuing agency upon request)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |                  |
| <input type="checkbox"/> B. I have a license to carry a concealed weapon pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. <i>(I will show CCW license upon request)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |                  |
| <input type="checkbox"/> C. This requirement would create a financial hardship. <i>(I attached proof of income)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |                  |
| Section 3: Insurance Coverage                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                 |                  |
| Name of firearm owner: Click or tap here to enter text.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                 |                  |
| Name of Insurance Company (issuing the policy): Click or tap here to enter text.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |                  |
| Address of Insurance Company: Click or tap here to enter text.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                 |                  |
| Phone: Click or tap here to enter text.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                 |                  |
| Insurance Policy Number:<br>Click or tap here to enter text.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Effective Date: | Expiration Date: |
| Section 4: Acknowledgment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                 |                  |
| I do, hereby attest that this information is true and I will provide proof of compliance (sign the form under penalty of perjury and keep form with firearms where they are stored or transported).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |                  |
| Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Date            |                  |

**Section 5: Financial Hardship Exemption Worksheet**

An individual qualifies for financial hardship if their household income is at or below the extremely low-income threshold for Santa Clara County, adjusted for household size, according to the Area Median Income (AMI) calculations released annually by the California Department of Housing and Community Development (HCD). (The extremely low-income threshold is set at 30% of AMI.)

**To claim the financial hardship exemption, complete the required information below, including stating your household size and gross household income.**

|                                                                     |                                                          |
|---------------------------------------------------------------------|----------------------------------------------------------|
| Number of persons in my household: Click or tap here to enter text. | Gross household income: Click or tap here to enter text. |
|---------------------------------------------------------------------|----------------------------------------------------------|

To qualify for a financial hardship exemption your gross household income cannot exceed 30% of AMI adjusted for your household size. Please review the information in the table below to determine if you qualify.

If your income is at or below the allowed limit, you may claim a Financial Hardship Exemption in Section 2 of this form. You must provide proof of financial hardship and attach a copy of your current Federal Income Tax Return (form 1040) to this Attestation Form. **The Social Security number on the form 1040 should be redacted.**

| Household Size                | Area Median Income (AMI)<br>30%                                                                  |
|-------------------------------|--------------------------------------------------------------------------------------------------|
| 1 Person                      | [insert]                                                                                         |
| 2 Person                      | [insert]                                                                                         |
| 3 Person                      | [insert]                                                                                         |
| 4 Person                      | [insert]                                                                                         |
| 5 Person                      | [insert]                                                                                         |
| 6 Person                      | [insert]                                                                                         |
| 7 Person                      | [insert]                                                                                         |
| 8 Person                      | [insert]                                                                                         |
| 9 Person household and larger | For every additional person over 8, add [insert] to the income threshold for 8 person households |

# Exhibit I



# Memorandum

**TO: HONORABLE CITY COUNCIL**

**FROM: MAYOR LICCARDO**

**SUBJECT: GUN HARM REDUCTION ORDINANCE DATE: JANUARY 19, 2022**

Approved

Date 1/19/22

## DISCUSSION

A more substantive memorandum—with specific recommendations—will follow, but it is important for the entire City Council to have access to all of the data available to us in evaluating this proposed ordinance. When we initially proposed the imposition of a fee paid by gun owners in San Jose, it became apparent that under Proposition 26, it would be helpful to establish the legal baseline and ceiling for that fee, by identifying the cost burden to San Jose taxpayers of gun-inflicted injuries and death in San Jose. Doing so requires rigorous study of demographics and cost data from healthcare and other service providers, public agencies, and other sources.

Accordingly, we sought to identify a qualified consultant, and multiple references recommended the Pacific Institute on Research and Evaluation (PIRE), an independent, nonprofit organization, headed by health economist Dr. Ted Miller, Ph.D. Dr. Miller and his team—consisting of David Swedler, Ph.D and Bruce Lawrence, Ph.D, gathered data, conducted research, and prepared the attached document, reflecting their calculations. Dr. Miller summarized their preliminary findings in a June report, and the attached provides a fuller description of PIRE’s assumptions, methods, and findings. Among those findings:

- On average, 206 people suffered death or serious injury from gunshots each year in the City of San José between 2012 and 2018.
- Conservatively, San José taxpayers annually spend approximately \$39.7 million, or approximately \$151 per firearm-owning household, to respond to gun violence with publicly-funded services such as emergency police and medical response, victim assistance, incident investigation, acute and long-term health care, and perpetrator adjudication and judicial sanctioning.



- When private financial costs to individuals and families are included in the calculation, San José residents incur an annual burden of \$442 million per year.

This report was peer-reviewed by economist Dr. John J Donohue III, JD, PhD, a law professor at Stanford Law School, and epidemiologist Julie Parsonnet, MD, a health policy expert at Stanford University School of Medicine. My thanks for their commitment of time.

This work was funded by a grant from the Silicon Valley Community Foundation using philanthropic funds that originated from two donors. My deep gratitude to Director Holly Kreider and CEO Deanna Gomby at the Heising-Simons Foundation, and to SV Angel founder Ron Conway for their generous support. I also thank Gina Dalma and Nicole Taylor of the SVCF for their support of our efforts. None of these funders or supporters have reviewed the report, so it may or may not reflect their views.