

Meeting Date: 8/20/2013

Report Type: Consent

Report ID: 2013-00615

Title: (Pass for Publication) City Code Amendments Related to Firearm Sales (M13-010)

Location: Citywide

Issue: In the last decade, our nation has seen an increase in gun violence including incidents at schools and other places of public gathering not seen in previous decades. In response, the Law and Legislation Committee directed staff to look into options and prepare any appropriate ordinances that would further regulate the availability of weapons and ammunition within the City.

Recommendation: 1) Review an Ordinance amending various sections of Chapter 5.64 of the Sacramento City Code relating to firearm and ammunition sales and various sections of Title 17 of the Sacramento City Code relating to firearms businesses; and 2) Pass for Publication the Ordinance title as required by Sacramento City Charter Section 32(c) to be adopted on August 27, 2013.

Contact: Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department; Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

Presenter: None

Department: Community Development Dept / Finance - Revenue Division

Division: Zoning

Dept ID: 21001224

Attachments:

- 1-Description/Analysis
- 2-Discussion of Proposed City Code Amendments
- 3-Ordinance Redlined
- 4-Ordinance Clean

City Attorney Review

Approved as to Form
Steve Itagaki
8/9/2013 8:54:48 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
8/2/2013 9:53:38 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 8/8/2013 11:51:07 AM

Description/Analysis

Policy Considerations: The City of Sacramento 2030 General Plan policies encourage a healthy lifestyle for Sacramento residents to improve overall public health. The Public Health and Safety Goal 5.1 states that a goal of the General Plan is to: "Improve the provision of human services and promote public health and safety."

On April 2, 2013, the Law and Legislation Committee adopted the 2013 State Legislative Platform that includes the following:

"Supporting a Safe and Prepared Community:

The City supports legislative and funding opportunities to improve the safety, security and the quality of life for Sacramento residents...The City supports legislation and funding to assist in reducing and preventing gun violence, crimes, drug use, gang violence and pedestrian safety."

Economic Impacts: None.

Environmental Considerations: The adoption of the ordinance would have no significant effect on the environment and is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Sustainability: There are no sustainability considerations with this report.

Commission/Committee Action: The City's Law and Legislation Committee reviewed various options to regulate firearms and address the problem of gun violence at the local, state, and federal levels at their committee meetings of February 21, 2013, and May 7, 2013. At the May 7, 2013, meeting, the committee directed staff to develop an ordinance requiring a special permit requirement for a firearm business and take the proposed ordinance to the Planning and Design Commission and City Council for their review and approval.

On June 27, 2013, a public hearing was held before the Planning and Design Commission to review the proposed ordinance. Some commissioners raised concerns that the proposed conditional use permit regulation at the Planning and Design Commission would add time and additional fees to the process of opening up a retail firearms business. The commission, by a vote of eight ayes, two noes, and three absent, voted to recommend that the City Council amend the ordinance to require that

the public hearing for the conditional use permit be before the Zoning Administrator rather than the Planning and Design Commission.

Rationale for Recommendation: Currently, regulations relating to firearm and ammunition sales licenses are found in Chapter 5 of the Sacramento City Code. The Planning and Development Code (Title 17) does not specifically mention firearm sales, treating it as a retail use. However, the California State Legislature is currently considering additional gun control and ammunition sales regulations. The proposed amendment to Title 17 would add the special permit/conditional use permit requirement to the Sacramento City Code, allowing the Planning and Design Commission to review the use at a public hearing and ensure that any proposed firearms business is compatible with the community in which it is proposed for location.

Financial Considerations: None.

Emerging Small Business Development (ESBD): There are no ESBD considerations with this report.

Discussion of Proposed City Code Amendments

The Zoning Code currently classifies firearm and or ammunition businesses under retail sales and does not call out the use in a separate land use category. Retail sales are permitted by right in the commercial and industrial zones. There are nine establishments in the City of Sacramento with licenses for firearm and ammunition sales. The businesses are located in the General Commercial (C-2), Shopping Center (SC), and Light Industrial (M-1) Zones. Four of the sites are sporting goods stores, one is a pawn shop, and the remaining four specialize in firearm and/or ammunition sales.

The proposed ordinance amends Title 17 of the City Code to require that establishments that include firearm or ammunition businesses receive a conditional use permit from the Planning and Design Commission. Firearm and/or ammunition businesses would be limited to the General Commercial (C-2), Central Business District (C-3), Heavy Commercial (C-4), Shopping Center (SC), Light Industrial (M-1, M-1S), and Heavy Industrial (M-2S) Zones. Requiring a use permit would allow the Planning and Design Commission to analyze the location of any proposed firearms and or ammunition sales establishment, and, if approved, conditions could be placed on this specialized retail use to ensure that firearm and or ammunition sales did not result in the creation of a nuisance and would not interfere with the health and well-being of the community in which they are located.

The proposed ordinance also amends various sections of Chapter 5.64 of the Sacramento City Code relating to firearm and ammunition sales licenses (Sections 1 through 9 of the ordinance). These changes simply integrate the conditional use permit requirement into the licensing process and allow the license to be denied, suspended, or revoked for any violation of the conditions of the special permit. Other non-substantive changes were made to Chapter 5.64 for clarification.

Public/Neighborhood Outreach and Comments: Existing retailers of firearms in the City of Sacramento have been informed of the proposed Zoning Code amendment.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF
CHAPTER 5.64 OF THE SACRAMENTO CITY CODE RELATING
TO FIREARM AND AMMUNITION SALES; AND VARIOUS
SECTIONS OF TITLE 17 OF THE SACRAMENTO CITY CODE
RELATING TO FIREARMS BUSINESSES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.64.010 of the Sacramento City Code is amended to read as follows:

5.64.010 Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

“Applicant,” means a person applying for a license to engage in firearm and ammunition sales. ~~When the applicant person~~ is other than a natural person, “applicant” includes any officer, director, employee or agent of the ~~applicant person who may be engaged in the business of selling, leasing or otherwise transferring any firearm or firearm ammunition applying for the license.~~

~~“Engaging in the business” means the conduct of a business by the selling, leasing or transferring of any firearm or firearm ammunition; or the preparation for such conduct of business as evidenced by the securing of applicable federal or state licenses; or the holding of one’s self out as engaged in the business of selling, leasing or otherwise transferring of any firearm or firearm ammunition, or the selling, leasing or transferring of firearms in quantity, in series, or in individual transactions, or in any other manner indicative of trade.~~

“Chief of police” means the chief of police or the chief of police’s designee.

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile through a barrel by the force of an explosion or other form of combustion.

“Firearm ammunition” means any cartridge or encasement containing a bullet or projectile, propellant or explosive charge, and a primer which is used in the operation of a firearm.

“Firearm and ammunition sales” means the selling, leasing or transferring of any firearm or firearm ammunition in quantity, in series, in individual transactions, or in any other manner indicative of trade; or the preparation for such conduct as evidenced by the securing of applicable federal or state licenses; or the holding of one’s self out as engaged in such conduct.

SECTION 2.

Section 5.64.020 of the Sacramento City Code is amended to read as follows:

5.64.020 License requirement and penalty for violation.

A. ~~It is unlawful for any person, firm, corporation or dealer~~No person shall engaging in the business of selling, leasing or otherwise transferring any firearm or firearm ammunition, to sell, lease or otherwise transfer any firearm or firearm ammunition engage in firearm and ammunition sales, without ~~first having obtained a valid~~ license from the chief of police. Gunsmiths, crafts makers and firearms collectors ~~shall be~~ are not ~~be~~ required to ~~obtain possess such~~ a license unless they sell, lease or transfer firearms.

B. The chief of police shall make available application forms requiring applicants to provide the information set forth in ~~Section 5.64.030 of this chapter, and Applicants shall collect submit a completed application and~~ a nonrefundable application fee ~~from each applicant to the Revenue Division of the Department of Finance.~~ Upon receiving the application fee, the ~~chief of police Revenue Division~~ shall issue a receipt to the applicant showing that such application fee has been paid. The issuance of ~~such a the~~ receipt ~~shall does~~ not authorize an applicant to engage in ~~the sale, lease, or other transfer of firearms or firearm ammunition~~ firearm and ammunition sales until the necessary license has been lawfully issued.

~~BC.~~ The application fee amount shall be established by resolution of the city council and shall be the exclusive source of city funds from which recovery of all costs associated with this chapter may be obtained, including but not limited to, processing applications, monitoring licensees, and enforcing the provisions of this chapter.

~~CD.~~ Any person, ~~firm, corporation or dealer engaging in the business of selling, leasing or otherwise transferring any firearm or firearm ammunition to sell, lease, or otherwise transfer any firearm or firearm ammunition without first having obtained a license from the Sacramento police department or, once having obtained a license,~~

~~violates any of the conditions set forth in Section 5.64.110 of this chapter or continues to engage in the business after such license is revoked or suspended, shall be in violation of this chapter and who violates subsection A of this section is~~ guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both. The chief of police shall prescribe a form on which the chief of police shall inform the California Department of Justice that such violators do not meet the state requirements for gun licensees or dealers pursuant to Penal Code ~~Section 12071(a)(1)~~ 26700.

SECTION 3.

Section 5.64.030 of the Sacramento City Code is amended to read as follows:

5.64.030 Application form.

A. The application for a license to engage in ~~the business of selling, leasing or otherwise transferring any firearm or firearm ammunition~~ firearm and ammunition sales shall be signed under penalty of perjury and shall set forth:

A1. The name, age and address of the applicant;

B2. The address of the location for which the license is required, together with the business name, if any, of such location;

C3. All convictions of the applicant for any misdemeanor or felony;

D4. All information relating to licenses or permits relating to firearms or other weapons sought by the applicant from other jurisdictions, including, but not limited to, the date(s) of application(s) and whether each such application resulted in issuance of a license or permit;

E5. All information relating to suspension(s) or revocation(s) of licenses or permits relating to firearms, including, but not limited to, the date and circumstances of the suspension(s) or revocation(s);

F6. Applicant's agreement to indemnify, defend, and hold harmless the city, its officers, agents, and employees, from and against any and all claims, losses, costs, damages and liabilities of any kind, arising in any manner out of the applicant's negligence or intentional or willful misconduct relative to the license for which the applicant is applying;

G7. Applicant's understanding that the city shall have the right to enter the buildings and premises designated in the license from time to time during regular business hours to make reasonable inspections and to investigate and enforce

compliance with building, mechanical, fire, electrical or plumbing regulations to the extent authorized by law;

~~H8.~~ Applicant's understanding that police department employees, as designated by the chief of police, shall have the right to enter the building and premises designated in the license during regular business hours to make reasonable inspections and to investigate and enforce compliance with the provisions of this chapter;

~~I9.~~ Other conditions deemed appropriate by the chief of police.

B. The application for a license to engage in firearm and ammunition sales shall be submitted with a copy of a valid special permit for the proposed location as required by Title 17.

C. The chief of police shall take the fingerprints of the applicant and shall confirm the information submitted. The chief of police shall act upon and either approve or deny the application at the earlier of the following: (1) within ~~one hundred eighty (180)~~ days of receipt of the application; or (2) within ~~thirty (30)~~ days after all required documentation and site investigations are conducted by the police department, the building inspection division, and the fire department; or (3) within ~~fifteen (15)~~ days of receipt of fingerprint verification by the State Department of Justice.

SECTION 4.

Section 5.64.060 of the Sacramento City Code is amended to read as follows:

5.64.060 Denial of license.

Except as specifically provided otherwise herein, the chief of police shall deny the issuance of a license when any of the following conditions exist:

A. The applicant is under the age of ~~twenty one (21)~~ years;

B. The applicant has had a similar type of license previously revoked or denied within the immediately preceding two years for substantive reasons;

C. The applicant has made a false or misleading statement of a material fact, or omission of a material fact, in the application for a license. If a license is denied on this ground, any reapplication for a gun dealer license shall be automatically denied for a period of two years;

D. The applicant has been convicted of:

1. Any offense so as to disqualify the applicant from owning or possessing a firearm under applicable federal, state, and local laws,

2. Any offense relating to the manufacture, sale, possession, use or registration of any firearm or dangerous or deadly weapon,

3. Any offense involving the use of force or violence upon the person of another,

4. Any offense involving theft, fraud, dishonesty, or deceit,

5. Any offense involving the manufacture, sale, possession, or use of any controlled substance as defined by the California Health and Safety Code ~~as said definition now reads or may hereafter be amended to read;~~

E. The applicant is: (1) currently, or has been within the past two years, an unlawful user of any controlled substance as defined by the California Health and Safety Code ~~as said definition now reads or may hereafter be amended to read;~~ or (2) an excessive user of alcohol, to the extent that such use would impair his or her fitness to be a dealer in firearms;

F. Firearms having been confiscated from the applicant within the immediately past two years pursuant to California Penal Code ~~§section 12028.5 18250, as that section now reads or may hereafter be amended to read;~~

G. Applicant has been detained for psychiatric evaluation pursuant to California Welfare and Institutions Code ~~§section 5150 as that section now reads or may hereafter be amended to read, within the past five years;~~

H. The operation of the business as proposed would not comply with all applicable federal, state, and local laws;

I. The applicant, or an officer, employee, or agent thereof does not have, and/or cannot provide evidence of a possessory interest in the property at which the proposed business will be conducted in the form of ownership, lease, license or other entitlement to operate at such location and the written consent of the owner of record of the real property;

J. The applicant has failed to submit a complete application form and all information and documentation required by section 5.64.030; or

K. Any other ground for denial which exists under any applicable provision of federal, state, or local law.

SECTION 5.

Section 5.64.090 of the Sacramento City Code is amended to read as follows:

5.64.090 Security.

Each business licensed under this chapter shall meet the requirements of a “secure facility” pursuant to ~~Section 12071(c)(3)~~ 17110 of the California Penal Code.

SECTION 6.

Section 5.64.100 of the Sacramento City Code is amended to read as follows:

5.64.100 Application for employee work permit.

A. Each employee who engages in ~~the sale, lease or other transfer of firearms or firearm ammunition~~ firearm and ammunition sales must obtain either of the following: (1) a valid employee work permit from the chief of police; or (2) a valid certificate of eligibility issued by the California Department of Justice. The work permit requirement does not apply to employees at gun shows that are properly licensed under state and federal law.

B. The application for an employee work permit for an employee engaged in ~~the sale, lease or other transfer of firearms or firearm ammunition~~ firearm and ammunition sales shall be submitted to the chief of police on a form provided by the chief of police. Prior to submitting such application, a nonrefundable fee as established by resolution of the city council shall be paid to the chief of police to defray, in part, the cost of investigation and report required by this section. The chief of police shall issue a receipt to the employee showing that such permit application fee has been paid. The issuance of such a receipt shall not authorize an employee to engage in ~~the sale, lease or other transfer of firearms or firearm ammunition~~ firearm and ammunition sales until the necessary work permit has been lawfully granted.

C. The application to the chief of police shall be signed under penalty of perjury and set forth the following information:

1. The name, age and address of the employee;
2. The business name and address of the employer;
3. All convictions of the applicant for any misdemeanor or felony;
4. All information relating to licenses or permits relating to firearms or other weapons sought by the applicant from other jurisdictions, including, but not limited to,

the date(s) of application(s) and whether each such application resulted in issuance of a license or permit;

5. All information relating to suspension(s) or revocation(s) of licenses or permits relating to firearms, including, but not limited to, the date and circumstances of the suspension(s) or revocation(s);

6. Other reasonable conditions deemed appropriate by the chief of police.

D. The chief of police shall take the fingerprints of the employee and shall confirm the information submitted.

E. The chief of police shall act upon and either approve or deny the application for an employee work permit at the earlier of the following: (1) within ~~one hundred eighty (180)~~ days of receipt of the application; or (2) within ~~fifteen (15)~~ days of receipt of fingerprint verification by the State Department of Justice.

F. The chief of police shall deny the issuance of an employee work permit when any of the following conditions specified in ~~Sections~~ 5.64.060(D) through (G) ~~of this chapter~~ exist.

G. Duration and renewal of work permit. Unless revoked on an earlier date, all employee work permits issued pursuant to this chapter shall expire one year after the date of issuance; provided, however, that such work permits may be renewed by the chief of police for additional one-year periods upon the approval of an application for renewal by the chief of police and payment of the renewal fee established by resolution of the city council. Such renewal application shall set forth the information listed herein, and must be received by the chief of police, in completed form, no later than ~~forty-five (45)~~ days prior to the expiration of the current employee work permit.

H. Nonassignability. The assignment of any employee work permit issued pursuant to this chapter is unlawful and any such assignment shall render the license null and void. In addition, the attempt to transfer or assign any employee work permit issued pursuant to this chapter shall be further grounds for revocation.

I. Grounds for Revocation of Work Permit. In addition to any other provisions of this section, any circumstances constituting grounds for denial of an employee work permit shall also constitute grounds for revocation of an employee work permit.

SECTION 7.

Section 5.64.110 of the Sacramento City Code is amended to read as follows:

5.64.110 License—Conditions.

In addition to all other requirements and conditions stated in this chapter, each licensee shall be subject to all of the following conditions, the breach of any of which shall be sufficient cause of revocation of the license by the chief of police:

A. The business shall be carried on only in the building located at the street address shown on the license, except for gun shows as permitted under state and federal law.

B. The licensee shall comply with state law, including Sections 28050 through 28250 of the California Penal Code, ~~as those sections now read or may hereafter be amended to read.~~

C. The licensee shall verify that each employee engaged in ~~the sale, lease or other transfer of any firearm or firearm ammunition~~ firearm and ammunition sales has obtained either of the following: (1) a valid employee work permit from the chief of police; or (2) a valid certificate of eligibility issued by the California Department of Justice. An employee shall not engage in ~~the foregoing activities~~ firearm and ammunition sales if a work permit is denied or revoked by the chief of police. A licensee who permits an employee to work without a valid work permit or valid certificate of eligibility shall be in violation of this section.

D. The licensee shall not ~~sell, lease or otherwise transfer any firearm~~ engage in firearm and ammunition sales, except for leases or transfers for theatrical purposes, without also selling or otherwise providing with each firearm a nonreturnable trigger lock. If the use of a trigger lock on a particular type of firearm is infeasible, then the licensee shall do the following: (1) demonstrate such infeasibility to the satisfaction of the chief of police; and (2) make available for sale a similar device, which is approved by the chief of police, that is designed to prevent the unintentional discharge of the firearm.

~~E. The licensee shall not sell, offer to expose for sale, give, lease or otherwise transfer to any person, any ammunition feeding device with the capacity to accept more than ten (10) rounds of ammunition.~~

~~E.~~ The licensee shall not sell, lease or otherwise transfer any firearm to any person whom the licensee reasonably believes is within any of the classes prohibited by state law, including California Penal Code Sections 29800 through 29875, 29900 and 29905 or and California Welfare and Institutions Code Sections 8100 to through 8103, inclusive, as those sections now read or may hereafter be amended to read.

F. The licensee shall comply with all conditions, if any, of the special permit issued pursuant to chapter 17.

G. The licensee shall comply with all federal, state, and local laws, and all provisions of this chapter.

Any license issued pursuant to this chapter shall be subject to such additional conditions as the chief of police finds are reasonably related to the purpose of this chapter.

SECTION 8.

Section 5.64.140 of the Sacramento City Code is amended to read as follows:

5.64.140 Suspension of license.

A. If the chief of police reasonably believes that a licensee has: (1) violated any federal, state or local law relating to the sale, lease, transfer, use or possession of firearms or firearm ammunition; or (2) has committed any of the offenses set forth in ~~S~~section 5.64.060 ~~of this chapter~~; or (3) is within the class of persons set forth in ~~S~~section 5.64.060(E), (F) or (G) ~~of this section~~, the chief of police may immediately suspend the license for a period not to exceed ~~ninety (90) days~~ ~~the right of the licensee to sell, lease or otherwise transfer firearms or firearm ammunition~~.

B. If the licensee is charged by a federal, state, or local prosecuting attorney with a violation of any such law, the chief of police may suspend such license until the charges are dismissed or the licensee is found not guilty in a court of law. If the chief of police suspends a license pursuant to this provision, the licensee shall be provided an opportunity to present evidence to the chief or his or her designee that the pending charges are without legal merit. The chief's decision regarding whether to suspend a license pending the outcome of such charges shall be appealable by the licensee to the city council, at which proceeding the chief shall have the burden of proof to justify his decision by a preponderance of the evidence.

C. Notice of suspension shall be mailed, postage prepaid, to the last known mailing address of the licensee.

SECTION 9.

Section 5.64.170 of the Sacramento City Code is repealed.

~~5.64.170 Delivery to revenue manager.~~

~~Upon granting said license, the police department shall forward said license to the revenue manager, who shall issue said license to the applicant upon payment of the license fee, payable in advance.~~

SECTION 10.

Section 17.16.010 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The definition of “firearms business” is added to read as follows:

“Firearms business” means “firearm and ammunition sales” as defined in chapter 5.64.

B. Except as specifically amended in subsection A, above, all other provisions of section 17.16.010 remain unchanged and in full force and effect.

SECTION 11.

Section 17.24.030 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix set forth in Table 17.24.030A is amended to add “firearms business” as follows:

| <u>Use</u> | <u>RE</u> | <u>R-1</u> | <u>R-1A</u> | <u>R-1B</u> | <u>R-2</u> | <u>R-2A</u> | <u>R-2B</u> | <u>R-3</u> | <u>R-3A</u> | <u>R-4</u> | <u>R-5</u> | <u>RMX</u> | <u>RO</u> | <u>OB</u> |
|--------------------------|-----------|------------|-------------|-------------|------------|-------------|-------------|------------|-------------|------------|------------|------------|-----------|-----------|
| <u>Firearms business</u> | | | | | | | | | | | | | | |

B. The matrix set forth in Table 17.24.030B is amended to add “firearms business” as follows:

| <u>Use</u> | <u>EC</u> | <u>HC</u> | <u>SC</u> | <u>C-1</u> | <u>C-2</u> | <u>C-3</u> | <u>C-4</u> | <u>M-1</u> | <u>M-1(S)</u> | <u>M-2</u> | <u>M-2(S)</u> | <u>MIP</u> | <u>MRD</u> | <u>H</u> | <u>SPX</u> | <u>TC</u> | <u>A</u> | <u>AOS</u> | <u>F</u> | <u>AR P-F</u> | |
|--------------------------|-----------|-----------|-----------|------------|------------|------------|------------|------------|---------------|------------|---------------|------------|------------|----------|------------|-----------|----------|------------|----------|---------------|--|
| <u>Firearms business</u> | | | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | <u>5</u> | | | | | | | | | | |

C. Except as specifically amended in subsections A and B, above, all other provisions of section 17.24.030 and Tables 17.24.030A and 17.24.030B remain unchanged and in full force and effect.

SECTION 12.

Sections 13 through 21 of this Ordinance shall take effect on September 30, 2013, but only if Ordinance number 2013-0007 takes effect on September 30, 2013. If Ordinance number 2013-0007 takes effect on September 30, 2013, sections 13 through 21 of this Ordinance shall take effect immediately thereafter. If Ordinance number 2013-0007 does not take effect on September 30, 2013, sections 13 through 21 of this Ordinance shall not take effect.

SECTION 13.

Section 17.108.070 of the Sacramento City Code is amended as follows:

A. The definition of “firearms business” is added to read as follows:

“Firearms business” means “firearm and ammunition sales” as defined in chapter 5.64.

B. Except as specifically amended in subsection A, above, all other provisions of section 17.108.070 remain unchanged and in full force and effect.

SECTION 14.

Section 17.216.510 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.510.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|--------------------------|-------------|---|
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.510 and Table 17.216.510.B.2 remain unchanged and in full force and effect.

SECTION 15.

Section 17.216.710 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.710.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|--------------------------|-------------|---|
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.710 and Table 17.216.710.B.2 remain unchanged and in full force and effect.

SECTION 16.

Section 17.216.810 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.810.B.2 is amended to add “firearms business” to read as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|--------------------------|-------------|---|
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.810 and Table 17.216.810.B.2 remain unchanged and in full force and effect.

SECTION 17.

Section 17.216.910 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.910.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|--------------------------|-------------|---|
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.910 and Table 17.216.910.B.2 remain unchanged and in full force and effect.

SECTION 18.

Section 17.220.110 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.110.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-----|-------------|---|
| | | |

| | | |
|--------------------------|--|------------|
| <u>Firearms business</u> | | <u>PDC</u> |
|--------------------------|--|------------|

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.110 and Table 17.220.110.B.2 remain unchanged and in full force and effect.

SECTION 19.

Section 17.220.210 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.210.B.2 is amended to add “firearms business” as follows:

| | | |
|--------------------------|-------------|---|
| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.210 and Table 17.220.210.B.2 remain unchanged and in full force and effect.

SECTION 20.

Section 17.220.310 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.310.B.2 is amended to add “firearms business” as follows:

| | | |
|--------------------------|-------------|---|
| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.310 and Table 17.220.310.B.2 remain unchanged and in full force and effect.

SECTION 21.

Section 17.220.410 of the Sacramento City Code is amended as follows:

A. The matrix as set forth in Table 17.220.410.B.2 is amended to add

“firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|--------------------------|-------------|---|
| <u>Firearms business</u> | | <u>PDC</u> |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.410 and Table 17.220.410.B.2 remain unchanged and in full force and effect.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF
CHAPTER 5.64 OF THE SACRAMENTO CITY CODE
RELATING TO FIREARM AND AMMUNITION SALES;
AND VARIOUS SECTIONS OF TITLE 17 OF THE
SACRAMENTO CITY CODE RELATING TO FIREARMS
BUSINESSES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.64.010 of the Sacramento City Code is amended to read as follows:

5.64.010 Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

“Applicant,” means a person applying for a license to engage in firearm and ammunition sales. When the person is other than a natural person, “applicant” includes any officer, director, employee or agent of the person applying for the license.

“Chief of police” means the chief of police or the chief of police’s designee.

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile through a barrel by the force of an explosion or other form of combustion.

“Firearm ammunition” means any cartridge or encasement containing a bullet or projectile, propellant or explosive charge, and a primer which is used in the operation of a firearm.

“Firearm and ammunition sales” means the selling, leasing or transferring of any firearm or firearm ammunition in quantity, in series, in individual transactions, or in any other manner indicative of trade; or the preparation for such conduct as evidenced by the securing of applicable federal or state licenses; or the holding of one’s self out as engaged in such conduct.

SECTION 2.

Section 5.64.020 of the Sacramento City Code is amended to read as follows:

5.64.020 License requirement and penalty for violation.

A. No person shall engage in firearm and ammunition sales, without a valid license from the chief of police. Gunsmiths, crafts makers and firearms collectors are not required to possess a license unless they sell, lease or transfer firearms.

B. The chief of police shall make available application forms requiring applicants to provide the information set forth in section 5.64.030. Applicants shall submit a completed application and a nonrefundable application fee to the Revenue Division of the Department of Finance. Upon receiving the application fee, the Revenue Division shall issue a receipt to the applicant showing that such application fee has been paid. The issuance of the receipt does not authorize an applicant to engage in firearm and ammunition sales until the necessary license has been lawfully issued.

C. The application fee amount shall be established by resolution of the city council and shall be the exclusive source of city funds from which recovery of all costs associated with this chapter may be obtained, including but not limited to, processing applications, monitoring licensees, and enforcing the provisions of this chapter.

D. Any person who violates subsection A of this section is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both. The chief of police shall prescribe a form on which the chief of police shall inform the California Department of Justice that such violators do not meet the state requirements for gun licensees or dealers pursuant to Penal Code section 26700.

SECTION 3.

Section 5.64.030 of the Sacramento City Code is amended to read as follows:

5.64.030 Application form.

A. The application for a license to engage in firearm and ammunition sales shall be signed under penalty of perjury and shall set forth:

1. The name, age and address of the applicant;
2. The address of the location for which the license is required, together with the business name, if any, of such location;
3. All convictions of the applicant for any misdemeanor or felony;
4. All information relating to licenses or permits relating to firearms or other

weapons sought by the applicant from other jurisdictions, including, but not limited to, the date(s) of application(s) and whether each such application resulted in issuance of a license or permit;

5. All information relating to suspension(s) or revocation(s) of licenses or permits relating to firearms, including, but not limited to, the date and circumstances of the suspension(s) or revocation(s);

6. Applicant's agreement to indemnify, defend, and hold harmless the city, its officers, agents, and employees, from and against any and all claims, losses, costs, damages and liabilities of any kind, arising in any manner out of the applicant's negligence or intentional or willful misconduct relative to the license for which the applicant is applying;

7. Applicant's understanding that the city shall have the right to enter the buildings and premises designated in the license from time to time during regular business hours to make reasonable inspections and to investigate and enforce compliance with building, mechanical, fire, electrical or plumbing regulations to the extent authorized by law;

8. Applicant's understanding that police department employees, as designated by the chief of police, shall have the right to enter the building and premises designated in the license during regular business hours to make reasonable inspections and to investigate and enforce compliance with the provisions of this chapter;

9. Other conditions deemed appropriate by the chief of police.

B. The application for a license to engage in firearm and ammunition sales shall be submitted with a copy of a valid special permit for the proposed location as required by Title 17.

C. The chief of police shall take the fingerprints of the applicant and shall confirm the information submitted. The chief of police shall act upon and either approve or deny the application at the earlier of the following: (1) within 180 days of receipt of the application; or (2) within 30 days after all required documentation and site investigations are conducted by the police department, the building inspection division, and the fire department; or (3) within 15 days of receipt of fingerprint verification by the State Department of Justice.

SECTION 4.

Section 5.64.060 of the Sacramento City Code is amended to read as follows:

5.64.060 Denial of license.

Except as specifically provided otherwise herein, the chief of police shall deny the issuance of a license when any of the following conditions exist:

- A. The applicant is under the age of 21 years;
- B. The applicant has had a similar type of license previously revoked or denied within the immediately preceding two years for substantive reasons;
- C. The applicant has made a false or misleading statement of a material fact, or omission of a material fact, in the application for a license. If a license is denied on this ground, any reapplication for a gun dealer license shall be automatically denied for a period of two years;
- D. The applicant has been convicted of:
 - 1. Any offense so as to disqualify the applicant from owning or possessing a firearm under applicable federal, state, and local laws,
 - 2. Any offense relating to the manufacture, sale, possession, use or registration of any firearm or dangerous or deadly weapon,
 - 3. Any offense involving the use of force or violence upon the person of another,
 - 4. Any offense involving theft, fraud, dishonesty, or deceit,
 - 5. Any offense involving the manufacture, sale, possession, or use of any controlled substance as defined by the California Health and Safety Code;
- E. The applicant is: (1) currently, or has been within the past two years, an unlawful user of any controlled substance as defined by the California Health and Safety Code; or (2) an excessive user of alcohol, to the extent that such use would impair his or her fitness to be a dealer in firearms;
- F. Firearms having been confiscated from the applicant within the immediately past two years pursuant to California Penal Code section 18250;
- G. Applicant has been detained for psychiatric evaluation pursuant to California Welfare and Institutions Code section 5150;
- H. The operation of the business as proposed would not comply with all applicable federal, state, and local laws;
- I. The applicant, or an officer, employee, or agent thereof does not have, and/or cannot provide evidence of a possessory interest in the property at which the proposed business will be conducted in the form of ownership, lease, license or other entitlement to operate at such location and the written consent of the owner of record of the real property;

J. The applicant has failed to submit a complete application form and all information and documentation required by section 5.64.030; or

K. Any other ground for denial which exists under any applicable provision of federal, state, or local law.

SECTION 5.

Section 5.64.090 of the Sacramento City Code is amended to read as follows:

5.64.090 Security.

Each business licensed under this chapter shall meet the requirements of a “secure facility” pursuant to section 17110 of the California Penal Code.

SECTION 6.

Section 5.64.100 of the Sacramento City Code is amended to read as follows:

5.64.100 Application for employee work permit.

A. Each employee who engages in firearm and ammunition sales must obtain either of the following: (1) a valid employee work permit from the chief of police; or (2) a valid certificate of eligibility issued by the California Department of Justice. The work permit requirement does not apply to employees at gun shows that are properly licensed under state and federal law.

B. The application for an employee work permit for an employee engaged in firearm and ammunition sales shall be submitted to the chief of police on a form provided by the chief of police. Prior to submitting such application, a nonrefundable fee as established by resolution of the city council shall be paid to the chief of police to defray, in part, the cost of investigation and report required by this section. The chief of police shall issue a receipt to the employee showing that such permit application fee has been paid. The issuance of such a receipt shall not authorize an employee to engage in firearm and ammunition sales until the necessary work permit has been lawfully granted.

C. The application to the chief of police shall be signed under penalty of perjury and set forth the following information:

1. The name, age and address of the employee;
2. The business name and address of the employer;
3. All convictions of the applicant for any misdemeanor or felony;
4. All information relating to licenses or permits relating to firearms or other

weapons sought by the applicant from other jurisdictions, including, but not limited to, the date(s) of application(s) and whether each such application resulted in issuance of a license or permit;

5. All information relating to suspension(s) or revocation(s) of licenses or permits relating to firearms, including, but not limited to, the date and circumstances of the suspension(s) or revocation(s);

6. Other reasonable conditions deemed appropriate by the chief of police.

D. The chief of police shall take the fingerprints of the employee and shall confirm the information submitted.

E. The chief of police shall act upon and either approve or deny the application for an employee work permit at the earlier of the following: (1) within 180 days of receipt of the application; or (2) within 15 days of receipt of fingerprint verification by the State Department of Justice.

F. The chief of police shall deny the issuance of an employee work permit when any of the following conditions specified in sections 5.64.060(D) through (G) exist.

G. Duration and renewal of work permit. Unless revoked on an earlier date, all employee work permits issued pursuant to this chapter shall expire one year after the date of issuance; provided, however, that such work permits may be renewed by the chief of police for additional one-year periods upon the approval of an application for renewal by the chief of police and payment of the renewal fee established by resolution of the city council. Such renewal application shall set forth the information listed herein, and must be received by the chief of police, in completed form, no later than 45 days prior to the expiration of the current employee work permit.

H. Nonassignability. The assignment of any employee work permit issued pursuant to this chapter is unlawful and any such assignment shall render the license null and void. In addition, the attempt to transfer or assign any employee work permit issued pursuant to this chapter shall be further grounds for revocation.

I. Grounds for Revocation of Work Permit. In addition to any other provisions of this section, any circumstances constituting grounds for denial of an employee work permit shall also constitute grounds for revocation of an employee work permit.

SECTION 7.

Section 5.64.110 of the Sacramento City Code is amended to read as follows:

5.64.110 License—Conditions.

In addition to all other requirements and conditions stated in this chapter, each licensee shall be subject to all of the following conditions, the breach of any of which shall be sufficient cause of revocation of the license by the chief of police:

A. The business shall be carried on only in the building located at the street address shown on the license, except for gun shows as permitted under state and federal law.

B. The licensee shall comply with state law, including sections 28050 through 28250 of the California Penal Code.

C. The licensee shall verify that each employee engaged in firearm and ammunition sales has obtained either of the following: (1) a valid employee work permit from the chief of police; or (2) a valid certificate of eligibility issued by the California Department of Justice. An employee shall not engage in firearm and ammunition sales if a work permit is denied or revoked by the chief of police. A licensee who permits an employee to work without a valid work permit or valid certificate of eligibility shall be in violation of this section.

D. The licensee shall not engage in firearm and ammunition sales, except for leases or transfers for theatrical purposes, without also selling or otherwise providing with each firearm a nonreturnable trigger lock. If the use of a trigger lock on a particular type of firearm is infeasible, then the licensee shall do the following: (1) demonstrate such infeasibility to the satisfaction of the chief of police; and (2) make available for sale a similar device, which is approved by the chief of police, that is designed to prevent the unintentional discharge of the firearm.

E. The licensee shall not sell, lease or otherwise transfer any firearm to any person whom the licensee reasonably believes is within any of the classes prohibited by state law, including California Penal Code sections 29800 through 29875, 29900 and 29905 and California Welfare and Institutions Code sections 8100 through 8103.

F. The licensee shall comply with all conditions, if any, of the special permit issued pursuant to chapter 17.

G. The licensee shall comply with all federal, state, and local laws, and all provisions of this chapter.

Any license issued pursuant to this chapter shall be subject to such additional conditions as the chief of police finds are reasonably related to the purpose of this chapter.

SECTION 8.

Section 5.64.140 of the Sacramento City Code is amended to read as follows:

5.64.140 Suspension of license.

A. If the chief of police reasonably believes that a licensee has: (1) violated any federal, state or local law relating to the sale, lease, transfer, use or possession of firearms or firearm ammunition; or (2) has committed any of the offenses set forth in section 5.64.060; or (3) is within the class of persons set forth in section 5.64.060(E), (F) or (G), the chief of police may immediately suspend the license for a period not to exceed 90 days.

B. If the licensee is charged by a federal, state, or local prosecuting attorney with a violation of any such law, the chief of police may suspend such license until the charges are dismissed or the licensee is found not guilty in a court of law. If the chief of police suspends a license pursuant to this provision, the licensee shall be provided an opportunity to present evidence to the chief or his or her designee that the pending charges are without legal merit. The chief's decision regarding whether to suspend a license pending the outcome of such charges shall be appealable by the licensee to the city council, at which proceeding the chief shall have the burden of proof to justify his decision by a preponderance of the evidence.

C. Notice of suspension shall be mailed, postage prepaid, to the last known mailing address of the licensee.

SECTION 9.

Section 5.64.170 of the Sacramento City Code is repealed.

SECTION 10.

Section 17.16.010 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The definition of "firearms business" is added to read as follows:

"Firearms business" means "firearm and ammunition sales" as defined in chapter 5.64.

B. Except as specifically amended in subsection A, above, all other provisions of section 17.16.010 remain unchanged and in full force and effect.

SECTION 11.

Section 17.24.030 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix set forth in Table 17.24.030A is amended to add "firearms business" as follows:

| | | | | | | | | | | | | | | |
|-----|----|----|----|----|----|----|----|----|----|----|----|-----|----|----|
| Use | RE | R- | RMX | RO | OB |
|-----|----|----|----|----|----|----|----|----|----|----|----|-----|----|----|

| | | | | | | | | | | | | | | |
|-------------------|--|---|----|----|---|----|----|---|----|---|---|--|--|--|
| | | 1 | 1A | 1B | 2 | 2A | 2B | 3 | 3A | 4 | 5 | | | |
| Firearms business | | | | | | | | | | | | | | |

B. The matrix set forth in Table 17.24.030B is amended to add “firearms business” as follows:

| Use | EC | HC | SC | C-1 | C-2 | C-3 | C-4 | M-1 | M-1(S) | M-2 | M-2(S) | MIP | MRD | H | SPX | TC | A | AO |
|-------------------|----|----|----|-----|-----|-----|-----|-----|--------|-----|--------|-----|-----|---|-----|----|---|----|
| Firearms business | | | 5 | | 5 | 5 | 5 | 5 | 5 | 5 | 5 | | | | | | | |

C. Except as specifically amended in subsections A and B, above, all other provisions of section 17.24.030 and Tables 17.24.030A and 17.24.030B remain unchanged and in full force and effect.

SECTION 12.

Sections 13 through 21 of this Ordinance shall take effect on September 30, 2013, but only if Ordinance number 2013-0007 takes effect on September 30, 2013. If Ordinance number 2013-0007 takes effect on September 30, 2013, sections 13 through 21 of this Ordinance shall take effect immediately thereafter. If Ordinance number 2013-0007 does not take effect on September 30, 2013, sections 13 through 21 of this Ordinance shall not take effect.

SECTION 13.

Section 17.108.070 of the Sacramento City Code is amended as follows:

A. The definition of “firearms business” is added to read as follows:

“Firearms business” means “firearm and ammunition sales” as defined in chapter 5.64.

B. Except as specifically amended in subsection A, above, all other provisions of section 17.108.070 remain unchanged and in full force and effect.

SECTION 14.

Section 17.216.510 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.510.B.2 is amended to add “firearms business” as follows:

| | | |
|-----|-------------|---|
| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); |
|-----|-------------|---|

| | | |
|-------------------|--|--|
| | | Zoning Administrator (ZA); or City Council (CC) |
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.510 and Table 17.216.510.B.2 remain unchanged and in full force and effect.

SECTION 15.

Section 17.216.710 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.710.B.2 is amended to add “firearms business” as follows:

| | | |
|-------------------|-------------|---|
| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.710 and Table 17.216.710.B.2 remain unchanged and in full force and effect.

SECTION 16.

Section 17.216.810 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.810.B.2 is amended to add “firearms business” to read as follows:

| | | |
|-------------------|-------------|---|
| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.810 and Table 17.216.810.B.2 remain unchanged and in full force and effect.

SECTION 17.

Section 17.216.910 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.216.910.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-------------------|-------------|---|
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.216.910 and Table 17.216.910.B.2 remain unchanged and in full force and effect.

SECTION 18.

Section 17.220.110 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.110.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-------------------|-------------|---|
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.110 and Table 17.220.110.B.2 remain unchanged and in full force and effect.

SECTION 19.

Section 17.220.210 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.210.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-------------------|-------------|---|
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.210 and Table 17.220.210.B.2 remain unchanged and in full force and effect.

SECTION 20.

Section 17.220.310 of the Sacramento City Code is amended as follows:

A. The matrix set forth in Table 17.220.310.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-------------------|-------------|---|
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.310 and Table 17.220.310.B.2 remain unchanged and in full force and effect.

SECTION 21.

Section 17.220.410 of the Sacramento City Code is amended as follows:

A. The matrix as set forth in Table 17.220.410.B.2 is amended to add “firearms business” as follows:

| Use | Limitations | Approval Required by: Planning and Design Commission (PDC); Zoning Administrator (ZA); or City Council (CC) |
|-------------------|-------------|---|
| Firearms business | | PDC |

B. Except as specifically amended in subsection A, above, all other provisions of section 17.220.410 and Table 17.220.410.B.2 remain unchanged and in full force and effect.