

AN EXTENSION OF AN UNCODIFIED ADOPTED URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF NEW OR REPLACEMENT RETAIL USES SELLING FIREARMS OR AMMUNITION, TO ALLOW STAFF TIME TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES FOR FUTURE FIREARMS RETAIL USES.

City Attorney's Synopsis

This ordinance extends the urgency ordinance adopted on July 26, 2022, which imposes a temporary moratorium on the establishment of new or replacement retail uses selling firearms or ammunitions. The terms of the temporary moratorium will expire on July 26, 2023.

THE CITY COUNCIL OF THE CITY OF BURBANK FINDS, DETERMINES AND DECLARES THAT:

A Governments at all levels have a substantial interest in protecting the people from those who acquire guns lawfully or illegally and then use them to commit crimes resulting in injury or death of their victims, or who use them in the commission of other crimes such as robbery, sexual assault or homicide, particularly mass shootings such as those that have occurred since 2017 in Chicago, Illinois; Thousand Oaks, California; Pittsburgh, Pennsylvania; Perryman, Maryland; Bakersfield, California; Cincinnati, Ohio; Annapolis, Maryland; Santa Fe, Texas; Nashville, Tennessee; Parkland, Florida; Melcroft, Pennsylvania; Rancho Tehama, California; Sutherland Springs, Texas; Boulder, Colorado; Edgewood, Maryland; Las Vegas, Nevada; El Paso, Texas; Buffalo, New York; Uvalde, Texas, as well as the many other mass shootings over the past several years.

B. Fourteen (14) retail establishments that are licensed to sell firearms and ammunition currently operate in the City of Burbank, while neighboring cities of Glendale, Pasadena and Los Angeles have Ten (10), Three (3), Thirty-Six (36), respectively, making Burbank the City with the most retailers of firearms and ammunition per capita than any of these nearby municipalities at a rate of 1 firearms retail store per every 7,386 residents.

C. Under the City's current zoning regulations retail firearms stores are allowed by-right in all commercial zones that allow general retail uses.

D. On July 26, 2022, pursuant to Government Code Section 65858, the City Council adopted an urgency ordinance (Urgency Ordinance No. 22-3977) that imposed a temporary moratorium on the establishment of new or replacement retail uses selling firearms or ammunitions.

E The adopted urgency ordinance took effect immediately and is in place for a period of 45 days and will expire by operation of law unless extended by the City Council on or before September 9, 2022.

F Many of the commercial zones where existing and future retail firearms stores are located are adjacent to residential neighborhoods and other uses that include amongst other things, schools, child day care facilities, places of public assembly including places of worship, public parks and libraries.

G The City is authorized by Article XI, Section 7 of the California Constitution to make and enforce all local, police, and other ordinances and regulations not in conflict with general laws.

H The City Council finds and declares that it has questions and concerns about the proliferation of this type of land use in the City, adjacent to residential neighborhoods and in proximity to schools, child day care facilities and places of public assembly and seeks to analyze the current regulations and alternative regulations and administrative procedures to ensure the future locations of retail establishments that sell firearms and ammunitions do not detrimentally impact the health, safety and welfare of residential neighborhoods and other, specific uses.

I On August 23, 2022, pursuant to Government Code Section 65858 (d), the City Council considered an extension to the urgency ordinance originally adopted on July 26, 2022, that imposed a temporary moratorium on the establishment of new or replacement retail uses selling firearms or ammunitions.

J The City Council finds that the urgency ordinance extension is necessary for the City staff to study, develop, and propose for review by the Planning Board and adoption by the City Council regulations within a reasonable time regarding the establishment of a separate land use for the retail sales of firearms and ammunition and additional land use regulations for the use in the City of Burbank.

K The City Council finds that given the potential deleterious effect an otherwise lawful but unregulated business selling ammunition or firearms can have on other incompatible neighboring uses, passage of this extension to the adopted interim urgency ordinance will provide City staff sufficient time to research this issue and present a comprehensive zoning proposal to help ensure that the establishment of a retail sales use engaged in the sale of firearms or ammunition within the City will not be located as to be detrimental to the public health, safety and welfare.

L The City Council finds that other California cities have adopted zoning ordinances and business regulations that govern the sales of ammunition and firearms, and several municipalities, have adopted moratoria on an urgency basis prohibiting new commercial sales of ammunition or firearms while such ordinances or regulations are studied and considered.

M. The City Council acknowledged the measures taken by City Staff to alleviate conditions, which led to the adoption of Urgency Ordinance No. 22-3977 that are described in the City's written report, which was provided to the City Council on August 23, 2022, no less than 10-days prior to the expiration of the urgency ordinance pursuant to Government Code section 65858(d).

N. The City Council considered the report and recommendations of the Community Development Director and the evidence presented at such meeting.

O. In the absence of an extension to the moratorium, there is no way to provide a comprehensive study and consider the appropriate location of retail establishments that sell firearms in the City, and the nature and extent of health and safety regulations that could be imposed on such businesses due to the nature of the products they sell in relation to neighboring uses within the current 45-day period and thus impairing the City's substantial interests in economically sustainable development, health, public safety, vitality, and image of the City.

P. The City Council has determined that the adoption of an extension to the adopted urgency ordinance is categorically exempt from CEQA pursuant to Section 15061(b)(3).

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. All the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.
2. The City of Burbank Municipal Code does not include adequate regulations concerning the land use or licensing requirements for the retail sale of firearms and ammunition, but instead considers these uses with other general retail uses.
3. Maintaining the status quo zoning regulations has the potential to result in the further proliferation of new or replacement retail uses that sell firearms or ammunition without the proper analysis of any potential impacts to public health, safety, and welfare. By studying and analyzing our local land use regulations for the retail sale of firearms and ammunition during the moratorium, the City will be able to best tailor future regulations to the needs of our community in order to protect public health, safety, and welfare.
4. The current regulations, have the potential to result in new or replacement gun or ammunition retail stores that can displace other neighborhood serving retail and service commercial uses from tenant spaces and therefore create a threat to critical commercial corridors and the City's effort to preserve aesthetically inviting storefronts and pedestrian- friendly retail, restaurants and offices in such spaces, which have historically been the lifeblood of the community and a beacon to visitors where we allow new firearms and ammunition retail sale without regulation or consideration for their location.

5. In *Suter v. City of Lafayette*, 57 Cal. App. 4th 1109 (1997), the California Court of Appeal held that State law authorizes local governments to impose additional licensing requirements on firearms and ammunition dealers.
6. This moratorium is necessary to prevent irreversible issuance of permits, business licenses, and developments that could have a detrimental effect on the health, safety and welfare of the community. Without it, the potential exists that establishment of new or replacement commercial operations engaged in the retail sale of firearms or ammunition within the City without addressing appropriate regulation could result in incompatibility of land uses and adverse impacts on residents, businesses and neighborhoods that present a current and immediate threat to the public health, safety, and welfare.
7. The City Council finds it is necessary to approve this extension to the adopted Urgency Ordinance No. 22-3977 pursuant to Government Code 65858, from September 9, 2022, through July 24, 2023, with the interim development controls as follows:

A. MORATORIUM

The City Council does hereby, pursuant to Government Code Section 65858, impose a moratorium for ten (10) months and fifteen (15) days prohibiting the establishment of new or replacement retail businesses selling firearms or ammunition.

B. DEFINITIONS

For purposes of this urgency ordinance the terms below are defined as follows:

“Firearm” shall mean any pistol, revolver, rifle, shotgun or other device, designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or other form of combustion, or any device which is capable of being altered so as to expel a projectile in such manner.

“Ammunition” shall mean any projectile designed to be expelled through the barrel of a firearm by the force of an explosion or other form of combustion.

“Firearm or Ammunition Sales” shall mean the retail sale of firearms or ammunition by a firearms dealer, whether it is the principal sales item or incidental to the overall sales. This use includes firearms dealers that transfer and lease any firearms or related products.

C. ENVIRONMENTAL ANALYSIS

This extension to the adopted urgency ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Sections 15061(b)(3). The activity is covered by the commonsense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that

the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, it is the City's determination that this ordinance will not have a significant effect on the environment and is not subject to CEQA.

D. PENDING APPLICATIONS

As to applications for permits for a new or replacement retail use selling firearms and or ammunitions stores in the City, which have been accepted as complete, processing and review of such applications may continue, but shall not be finally approved during the pendency of this Ordinance or any extensions thereof.

- 8. This urgency ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately upon the adoption thereof, and shall expire and be of no further force and effect after ten (10) months and fifteen (15) days from the date of its adoption, unless further extended on or before this tenth (10th) month and fifteenth (15th) day.
- 9. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.
- 10. The City Clerk shall certify to the passage of this Ordinance and cause this Ordinance to be published, within fourteen days of the adoption hereof, once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

PASSED AND ADOPTED this 23rd day of August, 2022.



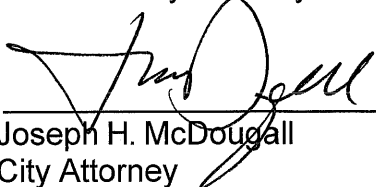
 Jess A. Talamantes
 Mayor

Attest:



 Zizette Mullins, MMC, City Clerk

Approved as to Form:
Office of the City Attorney

By: 

 Joseph H. McDougall
 City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Zizette Mullins, MMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 22-3,978 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 23rd day of August, 2022, by the following vote:

AYES: Schultz, Springer, Anthony and Talamantes.

NOES: None.

ABSENT: Frutos.

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following of the ordinance's adoption on August 23, 2022.



Zizette Mullins, MMC, City Clerk