

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: July 18, 2023

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
VIA: Fred Ramirez, Assistant Community Development Director, Planning
Scott Plambaeck, Planning Manager
Daniel Villa, Senior Planner
BY: Xjvirr Thomas, Associate Planner

SUBJECT: Adoption of a Second Extension of Urgency Ordinance No. 22-3,977 Imposing a Moratorium on New or Replacement Firearms Retailers in the City of Burbank, and Update on the Zone Text Amendment to Establish Zoning Regulations for Firearm Retailers

RECOMMENDATION

Adopt A SECOND EXTENSION OF AN 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 TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES FOR FUTURE FIREARM RETAIL USES (Attachment 1) (Requires 4/5th vote for adoption).

BACKGROUND

On July 26, 2022, the City Council was presented with a report that outlined the effects of existing firearm retailers in the City of Burbank and immediate, medium- and long-term options to address community concerns (Attachment 2). That night, Council adopted Urgency Ordinance No. 22 – 3,977 (Attachment 3) that imposed a moratorium on the establishment of new or replacement retail uses selling firearms or ammunition, for the City to undertake a comprehensive Zone Text Amendment (ZTA) and consider other regulatory options. On August 23, 2022, the Council extended the Urgency Ordinance (Urgency Ordinance Extension No. 22-3,978) (Attachment 4). With this report, Council is considering a subsequent, one-year extension of the moratorium, until July 26, 2024, that will provide staff necessary additional time to prepare the regulations.

Under the City's current land use regulations, firearm retailers are a permitted use in all commercial zones that allow general retail. The adopted Urgency Ordinance imposed a moratorium on all new or replacement firearm retailers to allow staff time to develop a

comprehensive package of recommended business license and zoning regulations. Specifically, Council directed staff to consider the following:

- Adoption of a ZTA to enact development standards for firearm retailers, including the establishment of buffer zones to address community concerns with the location of new firearm retailers along commercial corridors near sensitive uses.
- Limiting the number of firearm retailers in the City by suspending the issuance of new licenses and evaluating other municipalities discretionary review processes for similar retailers.
- Incorporating the Giffords Law Center Model Ordinance and recommended best practices aimed at addressing local concerns as development standards and other regulatory requirements in a future City ordinance and ZTA.
- Amending the business license process governed by Burbank Municipal Code (BMC) Section 3-4-111 to establish additional licensing requirements for firearms retailers.
- Conducting local inspections regarding inventory, storage, site security, and transaction procedures.

Without an extension of the moratorium and an update to the City's current zoning regulations governing firearm retailers, requests for new firearms retail establishments may result in land use incompatibility and put the City at risk of impairing its substantial interests in economically sustainable development, community health and welfare, public image, and urban design.

DISCUSSION

California Government Code Section 65858(d) requires that 10 days prior to the expiration of the Urgency Ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance. This is the required report.

Since the adoption and first extension of the Urgency Ordinance, staff has taken the following steps to alleviate the conditions leading to the Urgency Ordinance:

- Reviewed the Giffords Law Center Model Ordinance, other potential regulations, and analysis on the Giffords Institute website, and spoke with representatives from the Gifford Law Center Institute to identify potential regulations that can be incorporated into the City of Burbank's regulatory process for firearm retailers.
- Created buffer maps around sensitive uses and existing firearm retailers to identify their proximity to such uses and to one another.

- On March 28, 2023, City Attorney's Office presented an update to Council regarding the moratorium, additional firearm-related Council direction to staff, and staff progress made thus far (Attachment 5).
- On June 6, 2023, staff introduced an ordinance to amend Title 3, Chapter 4 to establish comprehensive administrative business license requirements for firearms and ammunition businesses (Attachment 6).
- On June 27, 2023, the Council adopted an ordinance to amend Title 3, Chapter 4 to establish administrative business license requirements for firearms and ammunition businesses (Attachment 7); the ordinance will go into effect on July 29, 2023.
- Researched and analyzed best practices instituted by other California cities, including discussions with Culver City staff who recently initiated and completed a process for creating new zoning regulations and standards for firearm retail uses; and
- Worked with the Building and Safety Division, the Police Department, and the City Attorney's Office to research, design and evaluate potential changes to the City's permit and license process, including a feasibility analysis to implement a local inspections program for existing firearm retail stores.

However, the work necessary to fully address the concerns raised by Council is ongoing. Staff needs additional time to complete the ZTA. Therefore, staff requests that Council extend the Urgency Ordinance a second and final time, for one year, as permitted by California Government Code Section 65858(a).

Pursuant to State law, without additional action, the initial urgency moratorium would have expired in 45 days. The extended Urgency Ordinance is currently valid for an additional 10-months and 15-days and will expire on July 26, 2023, unless extended for a second and final time by Council. After holding a public hearing, Council can extend the Urgency Ordinance for one additional year, for a total effective period of two years (CA Government Code Section 65858(a)). As with the initial adoption and extension of the Urgency Ordinance, a four-fifths (4/5th) vote is required. The Council has the option of extending the Urgency Ordinance for a final, one-year period, or allowing the Urgency Ordinance to expire. Should the Urgency Ordinance expire, new firearm retailers would again be permitted by-right in all commercial zones that allow general retail.

Staff recommends Council extend the Urgency Ordinance for one year, until July 26, 2024, to allow staff additional time to:

- Continue the research and development process for a ZTA that would create a new "firearm retail use" along with applicable development standards for this specific use (e.g., building standards, design standards, operational standards, discretionary review process, location, etc.).

- Identify the appropriate zoning regulations, including but not limited to, the establishment of a potential cap on the number of firearm retailers, a buffer requirement from sensitive uses, and the establishment of a discretionary review process.
- Continue to review the Giffords Law Center Model Ordinance and best practices instituted by other cities in the State of California.
- Study the feasibility of limiting or reducing the total number of firearm retailers over time while ensuring compliance with applicable local, state, and federal laws.
- Propose additional amendments to the Business License process for firearm retailers, governed by BMC Section 3-4-111.
- Meet with existing firearm retailers to better understand their existing practices and discuss the impacts the proposed regulations may have on their business operations; and
- Host a community workshop to gather neighborhood input on the proposed regulations being considered as part of the ZTA.

A project schedule for the completion of the ZTA is included as Attachment 8.

Necessity for the Extension of the Moratorium

As discussed, the City's current zoning regulations allow for firearm retail as a by-right use in all commercial zones that allow general retail uses. The current regulations in the BMC concerning the land use or licensing requirements for general retail uses do not adequately address the specific concerns associated with firearm retail uses and allow firearm retail to establish itself throughout the City with a resulting increased concentration of these uses along critical commercial corridors. The current approval process raises concerns for sustainable and economically diverse retail areas and impacts efforts to have aesthetically pleasing storefronts in the community.

The adopted Urgency Ordinance provided the City an opportunity to pause the existing review and approval process for firearm retail uses and work to create a comprehensive set of regulations for the permitting and placement of future firearm retail uses at a safe distance from sensitive uses that include among other things, schools, child day care facilities, and places of public assembly including places of worship, public parks, and libraries. To address all the items that were brought forth by the public and the direction provided by the Council, staff will need additional time to complete review and development of permitting and zoning requirements that encompass the needed components of a new set of regulations for firearm retail businesses. In addition, prior to a completed ZTA being brought before Council, staff will undertake the process of gathering community input and presenting any set of updated zoning regulations to the City's Planning Commission to obtain a recommendation for Council consideration – BMC 10-1-1992 (Attachment 9). Furthermore, the Urgency Ordinance and the requested one-year extension would provide the necessary time to allow staff to complete our review of

other jurisdictions in the State of California that have adopted zoning regulations for firearm retail uses and identify what is reasonable for the City of Burbank to protect the public health, safety, and general welfare of the community.

ENVIRONMENTAL REVIEW

The proposed Urgency Ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3). 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.

FISCAL IMPACT

Approval of the second extension to the adopted urgency ordinance (Attachment 1) imposing a temporary moratorium on new and replacement firearms and ammunition retail businesses would not impact the City's ability to collect Business License fees and property taxes from existing firearm retail businesses. However, additional costs may be incurred on the research and development of ordinance(s) being undertaken as part of the ZTA. Any additional and unfunded costs incurred as part of the ZTA will be brought forth for subsequent Council consideration.

CONCLUSION

The requested extension to July 26, 2024, will provide staff adequate time to research the remaining issues and present a comprehensive set of requirements that the Council may consider for the ongoing regulation of existing and new firearms retailers. Staff is requesting additional time beyond the initial 45-day moratorium and 10-month 15-day extended moratorium period to continue to evaluate appropriate regulatory components that can be included as part of future City code amendments. This includes an update to the City's Zoning ordinance to address all the items raised by Council during the July 26, 2022, Council Meeting. Approval of the extension, and later consideration of a ZTA, allows the City to proactively address land use incompatibilities that may arise when approving new firearm retail uses.

ATTACHMENTS

Attachment 1 – Ordinance

Attachment 2 – July 26, 2022, Staff Report on Urgency Ordinance and Regulatory Framework

Attachment 3 – Interim Urgency Ordinance No. 22-3,977 adopted July 26, 2022

Attachment 4 – Urgency Ordinance Extension No. 22-3,978 adopted August 23, 2022

Attachment 5 – March 28, 2023, Staff Report on Update to Council Regarding Moratorium and Additional Direction to Staff

Attachment 6 – June 6, 2023, Staff Report on introducing an Ordinance to Amend Title 3, Chapter 4 to Establish Administrative Business License Requirements for Firearms and Ammunition Businesses

Attachment 7 – Adopted Administrative Business License Requirements for Firearms and Ammunition Businesses Ordinance No. 23-3,997 adopted June 27, 2023

Attachment 8 – Tentative Project Schedule
Attachment 9 – Burbank Municipal Code (BMC) Section 10-1-1992: Planning
Commission Study and Report
Correspondences