

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: December 5, 2023

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
VIA: Fred Ramirez, Assistant Community Development Director, Planning
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SUBJECT: Update on Zone Text Amendment Establishing Zoning Regulations for Firearm and Ammunition Retail Uses

RECOMMENDATION

Provide direction to staff on the draft zone text amendment establishing zoning and use regulations for firearm and ammunition retail activity (Attachment 1).

BACKGROUND

On July 26, 2022, the City Council was presented with a report outlining the then-existing process by which retailers could secure a license to sell firearms and ammunition. The report also provided an assessment about potential effects of existing firearm retailers in the City and provided immediate, medium, and long-term options to address community concerns (Attachment 2). City Council immediately adopted Urgency Ordinance No. 22 – 3,977 (Attachment 3) imposing a moratorium on the establishment of new or replacement retail uses selling firearms or ammunition while staff began to undertake a comprehensive Zone Text Amendment (ZTA) and consider other regulatory options. On August 23, 2022, the City Council extended the Urgency Ordinance (Urgency Ordinance Extension No. 22-3,978) (Attachment 4) for ten months and fifteen days until July 26, 2023. On July 18, 2023, the City Council approved a one-year extension of the moratorium (Urgency Ordinance Extension No. 23-3,998) (Attachment 5) until July 26, 2024. The moratorium has and continues to provide time needed to engage stakeholders and complete draft regulations for future public review and City Council consideration.

Separately, on June 6, 2023, City 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 City Council adopted the Ordinance which clarified existing practice and established new licensing

requirements for all City firearms and ammunition businesses (Attachment 7); the Ordinance went into effect on July 29, 2023.

Under the City's existing land use regulations, firearm retailers are a permitted use in all commercial zones that allow general retail. The moratorium restricted new or replacement firearm retailers to allow staff time to develop a comprehensive package of recommended business license and zoning regulations and consider the following:

- Adopting 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 i.e., residential zones, schools, places of worship.
- 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.
- Reviewing the Giffords Law Center Model Ordinance and recommended best practices aimed at addressing local concerns, which may be incorporated 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.
- Establishing local inspections regarding inventory, storage, site security, and transaction procedures.

DISCUSSION

During the current moratorium period, staff has:

- Reviewed the Giffords Law Center Model Ordinance and other potential regulations and analysis on the Giffords Institute website and spoke with representatives from the Gifford Law Center to identify potential regulations to incorporate 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.
- Researched and analyzed best practices instituted by other California cities, including discussions with staff from Culver City who recently initiated and completed a process for creating new zoning regulations and standards for firearm retail uses (Attachment 8).
- 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 the implementation of a local law enforcement inspection program for existing firearm retail stores.

- Met with existing firearm retailer stakeholders to discuss the proposed draft Zone Text Amendment development standards and the implementation of the recently amended Business License procedures and inspection program.

Draft Zone Text Amendment

Staff has prepared draft ZTA language (Attachment 1) for Council's review and input. The draft is currently divided into several sections that include: definitions specific to firearm retailers; an updated permitting process requiring approval of a Conditional Use Permit for the operation of any new firearm retailers; a section on compliance required by existing firearm retailers outlining their continued operational status as legal non-conforming; and location and distance separation requirements for any new firearm retailers. In addition, the draft language includes standards for a video surveillance system, the secure storage of firearms, the installation of bollards or other barriers and on-premises lighting requirements.

Work to finalize the ZTA which addresses concerns raised by City Council is ongoing. Staff is requesting feedback and input on the draft firearm retail development use standards to complete the ZTA process prior to the expiration of the moratorium. With Council feedback, staff will continue the research and development process for a ZTA that creates a new "firearm retail activity use" along with applicable development standards for this specific use (e.g., building standards, design standards, operational standards, etc.). Staff seeks feedback on the following items:

- Distance separation requirement from sensitive uses. Staff is proposing either 500 feet or 1,000 feet from residential zones and sensitive uses (Attachment 11).
- Discussion regarding where new firearm retail uses would be allowed.
- Discretionary Review (Conditional Use Permit) process in specific zones.
- Compliance requirements and termination of existing firearm retail uses
- Security measures

To provide increased opportunities for public input and participation on the draft ZTA and proposed development standards before final regulations are brought back to the City Council, City staff will host a community workshop on the draft ZTA and proposed development standards. At the community workshop, staff will provide a detailed overview of the proposed regulations and gather community input on the draft firearm retailers' regulations. A project schedule for completion is included as Attachment 9.

ENVIRONMENTAL REVIEW

Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA. The proposed ZTA is a regulatory action. Any foreseeable resulting development following approval of the ZTA is

anticipated to be less intense than what is allowed by the existing regulations pertaining to firearm sales, ammunition sales, and firearm range uses within the City. Therefore, staff have determined that there is no possibility that the project will have a significant effect on the environment and a Notice of Exemption will be filed upon approval of the ZTA by the City Council.

Additionally, the report to the City Council requesting feedback on Draft ZTA Standards for Firearm Retail Uses is statutorily exempt from review under the California Environmental Quality Act (CEQA), because it is a report describing possible future actions that have not yet been adopted or approved (CEQA Guidelines, Section 15262).

FISCAL IMPACT

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

Staff seeks feedback and direction from City Council on the draft ZTA, which it will incorporate into the planned public outreach and input process before it returns with a final proposed ZTA. The draft ZTA is intended to update the City's Zoning ordinance to address all the land use related concerns raised by City Council during the July 26, 2022, Council Meeting. The ZTA will allow the City to proactively address land use incompatibilities that may arise when approving new firearm retail uses.

ATTACHMENTS

Attachment 1 – Draft Firearm Retail Activity Use Regulations

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 – Urgency Ordinance Extension No. 23-3,998, Adopted July 18, 2023

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 – Ordinance No. 23-3,997, Adopted June 27, 2023

Attachment 8 – Potential Firearm Retail Use Policy Regulations Checklist

Attachment 9 – Tentative Project Schedule

Attachment 10 – Burbank Municipal Code (BMC) Section 10-1-1993: Planning Commission Study and Report

Attachment 11 – Proposed Maps for Distance Separation from Sensitive Uses and Residential Zones