

# STAFF REPORT



## COMMUNITY DEVELOPMENT

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**DATE:** May 21, 2024

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Director  
VIA: Fred Ramirez, Assistant Community Development Director - Planning  
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**SUBJECT:** Introduction of an Ordinance Amending Title 10, Chapter 1, of the Burbank Municipal Code to Establish Regulations and Development Standards for Firearm and Ammunition Retail Uses

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### **RECOMMENDATION**

Introduce AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1, ARTICLE 5 AND 11, OF THE BURBANK MUNICIPAL CODE ESTABLISHING REGULATIONS AND DEVELOPMENT STANDARDS FOR FIREARM AND AMMUNITION RETAIL USES (Attachment 1).

### **EXECUTIVE SUMMARY**

Staff recommends Council adopt an Ordinance to add Firearm and Ammunition Retailer as a distinct use along with relevant land use regulations and development standards to the Burbank Municipal Code (BMC) Title 10, Chapter 1, Zoning Regulation through a Zone Text Amendment (ZTA). The Planning Commission reviewed the draft ZTA, which establishes regulations and development standards for existing and new firearm and ammunition retailers in the City, and the Commission unanimously recommended the ZTA for Council approval at their April 8, 2024 meeting.

Staff assessed that the required findings of fact can be made and recommends Council approve the ZTA to establish regulations and development standards for Firearm and Ammunition Retailers in the BMC subject to the Findings of Fact in the attached draft Ordinance (Attachment 1).

## **BACKGROUND**

On July 26, 2022, Council approved an Urgency Ordinance (Ordinance No. 22-3,977) imposing a temporary moratorium on the establishment of new or replacement retail businesses selling firearms or ammunition (Attachments 2 and 3). The Urgency Ordinance and its subsequent extensions on August 23, 2022 and July 18, 2023, have provided staff time to develop a comprehensive regulatory framework for firearms and ammunition retailers that includes updates to both the business license requirements and the zoning regulations. The moratorium is set to expire on July 26, 2024 (Attachment 4).

Since the establishment of the moratorium, staff actively worked on developing objective land use and zoning regulations to regulate firearms and ammunition retail uses. On December 5, 2023, staff held a study session with Council to review a draft of the land use and development standards for firearms and ammunition retail uses to solicit policy direction and input (Attachment 5). Council provided comments on the legal nonconforming status of the existing firearm retail uses resulting from the proposed zoning regulations, distance separation requirements for new firearm retail uses, and the development standards for security requirements and lighting (Attachment 6).

On June 6, 2023, staff introduced an Ordinance to amend Title 3, Chapter 4 of the BMC to establish comprehensive regulatory local business license requirements for firearms and ammunition businesses (Attachment 7). On June 27, 2023, Council adopted the Ordinance, which clarified existing practice, instituted local inspections, and established licensing requirements for all City businesses selling firearms and ammunition (Attachment 8). That Ordinance went into effect on July 29, 2023.

## **DISCUSSION**

The ZTA incorporates comprehensive land use and zoning regulations for firearms and ammunition retail uses, specifically, distance separation requirements from residential zones and sensitive uses, and a discretionary review process.

### **Existing City Regulations**

The City's existing regulations allow firearms and ammunition retail uses by-right in all commercial zones that allow general retail uses. The existing BMC regulations do not sufficiently address the specific nature of such businesses, so firearm retailers have been allowed in any commercially zoned location within the City. This has resulted in an increased concentration of firearm and ammunition retail businesses along commercial corridors, such as Magnolia Boulevard and Burbank Boulevard. The current by-right process and resulting concentration of such uses along commercial corridors has raised concerns regarding neighborhood compatibility and may not adequately promote sustainable and economically diverse retail areas in the community.

### **Proposed Zone Text Amendment (ZTA)**

Staff secured the services of a planning services consultant (Dudek Consultants) to collaborate in the research, preparation, and development of local regulations for firearms and ammunition retail uses with City-tailored objective standards. Throughout the preparation of the proposed ZTA, the project team:

1. Researched best practices and lessons learned from other jurisdictions;
2. Considered feedback received from stakeholder and community meetings; and
3. Worked closely with the City Attorney's Office to ensure consistency with State and Federal Law.

Based upon the project team's research, staff has identified a series of recommended regulations for Council consideration. They focus on the establishment of land use and development standards for new and existing firearm and ammunition retail uses and require amendments to Title 10 (Zoning Regulations), Chapter 1 (Zoning) of the BMC. These amendments generally include:

1. *Updates to the Zoning Use List* – The Zoning Use List (BMC § 10-1-502) would be updated to identify “Firearm and Ammunition Retailer” as a use rather than classifying it as general retail. It would also establish that the use is conditionally permitted in certain zones, subject to approval of a Conditional Use Permit.
2. *New Objective Standards for Firearm and Ammunition Retail Uses* – New objective standards establish definitions, a discretionary review process, distance separation requirements and development standards applicable to Firearm and Ammunition Retailers.

#### Distance Separation Requirements

The draft Ordinance includes firearm and ammunition retailer distance separation requirements from (1) residential zones and sensitive uses, and (2) other firearm and ammunition retailers. These requirements would apply to all new firearm and ammunition retailers. Staff and Planning Commission recommend:

1. Distance Separation of 500-feet from “Residential Zones” and 500-feet from “Sensitive Uses.”
2. Distance Separation of 500-feet from another “Firearm and Ammunition Retailer.”

The recommended distance separation requirements would allow for distance separation between Residential Zones and Sensitive Uses and prevent clustering of firearm and ammunition retailers, while maintaining multiple open sites in which new firearm and ammunition retailers could be established subject to approval of a conditional use permit.

The separation requirements in all options considered and analyzed, are further summarized (Attachment 9). A summary of the recommended amendments is provided (Attachment 10).

#### Findings for Adding a Use on the List of Permitted Uses

In accordance with BMC § 10-1-1991, the Council cannot add a use to a list of permitted uses without first making a series of findings. As identified in Attachments 1 and 11, it is staff's assessment and the Planning Commission's determination that the applicable findings can be made in conjunction with the addition of “Firearm and Ammunition

Retailer” as a conditionally permitted use, in certain zones<sup>1</sup>, in the Zoning Use List (BMC § 10-1-502).

### Finding for Approval of a Zone Text Amendment (ZTA)

California Government Code § 65860 requires that any ZTA be consistent with the objectives, policies, general land uses, and programs specified in the City General Plan. Attachments 1 and 11 include staff’s assessment and the Planning Commission’s determination that the ZTA would be consistent with the Burbank2035 General Plan.

### Planning Commission Recommendation

The Planning Commission considered the proposed ZTA and Ordinance during a noticed regular public hearing on April 8, 2024. After a brief presentation from staff, public testimony, and deliberation, the Commission voted 4-0 in favor of recommending Council approve the proposed Ordinance. A complete record of the meeting and the Commission’s discussion are summarized (Attachment 12).

### COMMUNITY OUTREACH

To ensure members of the public had an opportunity to learn about the ZTA and provide feedback and suggestions, staff held a community meeting on March 11, 2024. A summary of the community meeting and its marketing is provided (Attachment 13). Staff also held stakeholder meetings with existing firearm retailers to gain their feedback on the proposed draft development standards on August 26, 2023, and May 8, 2024.

In conformance with BMC § 10-1-1994, staff provided public notice in a newspaper of general circulation in the City on May 1, 2024, for the proposed ZTA to be heard by Council at their regular meeting of May 21, 2024. Notification of the Council meeting was also distributed through the City’s website and social media channels.

### TECHNICAL WORKING GROUP REVIEW

The proposed ZTA was researched, discussed, and evaluated by a technical working group of City staff from the City Manager’s Office, City Attorney’s Office, Police Department, Community Development Department’s Planning Division, Business License Division, and the Code Enforcement Division. The technical working group evaluated the proposed land use and zoning regulations to ensure the standards were objective, feasible, and practical, and to ensure consistency with other City policies and procedures. The working group also considered feedback from the public engagement processes.

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<sup>1</sup> The following zones are available for new firearm and ammunition retailers: BCC-1 Burbank Center Commercial Retail-Professional Zone, BCC-2 Burbank Center Commercial General Business Zone, BCCM Burbank Center Commercial Manufacturing Zone, C-3 Commercial General Business Zone, and M-2 General Industrial Zone. Staff recommends that a new firearm and ammunition retailer be conditionally approved in all the zones listed above, except BCC-1 Burbank Center Commercial Retail-Professional Zone, which allows commercial retail and office uses that are geared towards a downtown village concept, including an allowance for residential uses above commercial uses on the same property. The addition of firearm and ammunition retail uses would not be compatible with the intent and purpose of the village concept designated in the zone, nor match the basic characteristics of other uses in that zone. Therefore, the findings required for the ZTA could not be made in that zone, and it is excluded from the proposed draft Ordinance.

## **ENVIRONMENTAL ASSESSMENT**

The proposed ZTA has been reviewed for compliance with the California Environmental Quality Act (CEQA). It is staff's assessment that the ZTA is exempt from review under CEQA, pursuant to CEQA Guidelines Section 15061(b)(3). The activity is covered by the common-sense 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. No unusual circumstances exist that would preclude the use of this exemption. This proposed ZTA is an administrative activity of the City, which will have no potential significant environmental effect on existing firearm retailers. Furthermore, pursuant to CEQA Guidelines Section 15378, this ZTA is not considered a "project" subject to the requirements of CEQA because the ZTA has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

## **FISCAL IMPACT**

There is no fiscal impact to the City's General Fund by adopting the proposed ZTA. Approval of the Ordinance and future applications regarding firearm and ammunition retailers would be processed through the City's existing planning or building plan check and permitting process, which includes the payment of associated processing and development fees. Any unforeseen fiscal impacts and required fee adjustments that may result from adoption of the Ordinance would be brought forth later for Council consideration.

## **CONCLUSION**

Based on Council direction, staff prepared the proposed Ordinance (Exhibit A) to amend the BMC and incorporate land use and zoning regulations for future businesses that want to engage in the sale, lease, or transfer firearms or ammunition in the City. The ZTA, if adopted, is intended to encourage thoughtful future development of firearm retailers and protect the sustainability and neighborhood character of existing commercial corridors. The proposed Ordinance is in accordance with the City's authority to make and enforce all local, police, and other ordinances and regulations not in conflict with general laws. Finally, the proposed Ordinance would allow the City to proactively address land use incompatibilities in the City's industrial and commercial zones and would require that new firearm retail uses comply with objective development standards to ensure compatibility in their proposed zones and surrounding neighborhoods.

## **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 – Interim Urgency Ordinance No. 22-3,998, Adopted July 18, 2023

Attachment 5 – December 5, 2023, Staff Report update on Zone Text Amendment

Establishing Zoning Regulations for Firearm and Ammunition Retail  
Uses

Attachment 6 – Summary of City Council Discussion on December 5, 2023

Attachment 7 – June 6, 2023, Staff Report Introducing an Ordinance to Amend Title 3,  
Chapter 4 to Establish Administrative Business License Requirements  
for Firearms and Ammunition Businesses

Attachment 8 – Ordinance No. 23-3,997, Adopted June 27, 2023

Attachment 9 – Distance Separation Maps from Sensitive Uses and Residential Zones

Attachment 10 – Summary of Recommended Amendments to BMC

Attachment 11– Findings for Adding a Use To the List of Permitted Uses and Approving  
a Zone Text Amendment

Attachment 12 – April 8, 2024, Planning Commission Minutes and Resolution 3469

Attachment 13 – Summary of Community Meeting Discussion on March 11, 2024  
Correspondences