

AN UNCODIFIED 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.

City Attorney's Synopsis

This urgency ordinance imposes a temporary moratorium on the establishment of new or replacement retail uses selling firearm or ammunitions.

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 firearm retail store per every 7,386 residents.

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

D. Many of the commercial zones where existing and future retail firearm 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.

E. 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.

F. 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.

G. The City Council finds that it 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.

H. 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 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.

I. 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.

J. In the absence of a moratorium, there is no way to 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, thus impairing the City's substantial interests in economically sustainable development, health, public safety, vitality, and image of the City.

K. The City Council has determined that the adoption of this 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 firearm 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 adopt this Urgency Ordinance pursuant to Government Code 65858 with the interim development controls as follows:

A. MORATORIUM

The City Council does hereby, pursuant to Government Code Section 65858, impose a moratorium for forty-five (45) 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 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 forty-five (45) days from the date of its adoption, unless further extended on or before this forty-fifth (45th) 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 26th day of July, 2022.

s/Jess A. Talamantes
Jess A. Talamantes
Mayor

Attest:

Approved as to Form:
Office of the City Attorney

s/Zizette Mullins
Zizette Mullins, MMC, City Clerk

By: s/Joseph H. McDougall
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. 22-3,977 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 26th day of July 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 July 26, 2022.

s/Zizette Mullins
Zizette Mullins, MMC, City Clerk