

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: June 6, 2023

TO: Justin Hess, City Manager

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SUBJECT: Introduction of an Ordinance to Amend Title 3 (Businesses and Licenses), Chapter 4 (Business and Occupations) to Establish Administrative Business License Requirements for Firearms and Ammunition Businesses

RECOMMENDATION

Introduce AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 3 (BUSINESSES AND LICENSES) CHAPTER 4 (BUSINESS AND OCCUPATIONS) OF THE BURBANK MUNICIPAL CODE AND CREATING NEW REQUIREMENTS FOR FIREARMS AND AMMUNITION RETAIL BUSINESSES THAT REQUIRE A LOCAL BUSINESS LICENSE (Attachment 1)

BACKGROUND

On July 26, 2022, City 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 extension on August 23, 2022, has allowed staff time to research a comprehensive zoning proposal to present to Council to consider various regulatory frameworks within its zoning laws for firearms retailers. The moratorium is currently set to expire on July 24, 2023 (Attachment 4).

Along with the imposition of the moratorium, Council directed staff to research and report back on other short, medium, and long-term options to address community concerns regarding firearms and firearm retailers. Specifically, Council directed the following: (1) a gun buy-back program; (2) engagement of the community through continued education

programs; (3) further research into a local ghost gun ordinance; and (4) potential amendments to the Burbank Municipal Code's (BMC) business license and zoning regulations that provide for firearm retailer licensing requirements and new objective development standards.

On March 28, 2023, the City Attorney's Office updated Council on each of the above requests (Attachment 5). Council then directed staff to consider Culver City's November 2022 *License and Security Requirements for Retail Establishments Selling Firearms and Ammunition Ordinance* (Attachment 6) and return with "easy lifts" that could be considered and potentially implemented more immediately for Item 4 (above) ahead of a future Zone Text Amendment (ZTA) through which Council will consider comprehensive land use and zoning regulations for retail businesses selling firearms or ammunition.

DISCUSSION

The following is a summary overview of (1) the City's existing regulations governing retail businesses selling firearms or ammunition, (2) recommendations that can be codified and implemented immediately, and (3) an update on staff's progress on the future proposed ZTA that would establish comprehensive land use and zoning regulations for retail businesses selling firearms or ammunition.

Existing City Regulations

The City's current zoning regulations allow for firearm and ammunition retailers as a by-right use in all commercial zones that allow general retail uses. The existing regulations in the BMC concerning land use or licensing requirements for this type of use do not sufficiently address the specific nature of such businesses and therefore allow new firearm retailers to be established in any commercially zoned location within the City. This has resulted in an increased concentration of firearm retail businesses along commercial corridors, including near schools and residences. The current by-right process raises concerns about incompatibility and does not adequately promote sustainable and economically diverse retail areas in the community.

Additionally, the BMC includes regulations that govern the procedures for a firearms retailer to obtain a local business license in Title 3 (Business and Licenses), Chapter 4 (Businesses and Occupations), Article 1 (Retail and Service Businesses Requiring Licenses) (Attachment 7). These regulations allow the City to require that firearm retailers apply for a business license application, but they do not provide explicit regulations regarding the application process, such as submittal requirements or the objective requirements for receiving a local business license. The City's existing business license procedures for firearm retailers include a checklist of documents and submittal requirements for firearm retailers when applying to receive a local business license, but these procedures and submittal requirements are not codified in the BMC.

There are currently 14 firearm retailers licensed and operating in the City.

Potential Amendments to City Regulations

To identify "easy lift" local regulations, staff reviewed the Culver City ordinance from November 2022. Representatives from the Police Department, Community Development Department, and City Attorney's Office met with representatives from Culver City who had

worked on the adopted ordinance; the Culver City representatives are now involved in establishing an implementation program. As of the date of that meeting, Culver City had two firearms and ammunition retailers operating subject to its ordinance within the City.

Based upon best practices researched and discussed as part of the future ZTA and review of Culver City’s ordinance from November 2022, staff identified a series of recommended immediate regulations for Council consideration. They focus on the establishment of explicit licensing requirements for firearm and ammunition retailers and include law enforcement inspections. The regulations would require amendments to the BMC at, Title 3 (Business and Licenses), Chapter 4 (Businesses and Occupations), Article 1 (Retail and Service Businesses Requiring Licenses).

The recommended code amendments are summarized in the table below.

| <u>Summary of Recommended Amendments to the BMC</u> | |
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| <u>Code Section</u> | <u>Overview of Proposed Amendment</u> |
| 3-4-701: Purpose | Establishes a local program for license regulations of firearms and ammunition retail sales. |
| 3-4-702: Definitions | Introduces new, relevant definitions. |
| 3-4-703: Regulatory Permit – Required | States that a local business permit is required to engage in the sale, lease, or transfer of a firearm or ammunition within the City. |
| 3-4-704: Regulatory Permit – Application | Outlines the application and submittal requirements for a local firearm retail business license. |
| 3-4-705: Regulatory Permit – Application Fee | Establishes a requirement for a nonrefundable fee that will be collected at the time a completed application is submitted. |
| 3-4-706: Investigation by Police Chief | Establishes that the Burbank Police Department will conduct an investigation on the Applicant. |
| 3-4-707: Ground for Permit Denial | Outlines grounds for denial or revocation of a business license. |
| 3-4-708: On-Site Security Requirements¹ | Establishes on-site security requirements for firearms or ammunition retail businesses. |
| 3-4-708: Liability Insurance² | Establishes a requirement that firearm retail businesses obtain liability insurance. |

¹ Reflected in recent California State Law – Senate Bill 1384 (Attachment 8)

² Reflected in recent California State Law – Senate Bill 1384 (Attachment 8)

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| 3-4-709: Restricted Admittance of Minors and Other Prohibited Purchasers | Establishes restrictions on admittance to firearms retail businesses. |
| 3-4-710: Display of Regulatory Permit | Establishes a requirement that the local business license permit be displayed on the business premises. |
| 3-4-711: Issuance of Regulatory Permit – Duration | Establishes that a local business license is effective for one (1) year. At which point, the license would need to be renewed. |
| 3-4-712: Nonassignability | Makes local license unassignable. |
| 3-4-713: Compliance By Existing Business | Establishes that existing firearm or ammunition retail businesses have 180 days to comply with these regulations. |
| 3-4-714: Law Enforcement Inspections | Establishes periodic inspections of firearm retailers by the Burbank Police Department to ensure compliance with local, state, and federal laws. |
| 3-4-715: Posted Warnings | Identifies warning signs that must be posted on the premises. |
| 3-4-716: Report Of Permit Revocation to Federal and State Authorities | Establishes that if the permit is denied or revoked, the Bureau of Firearms of the California Department of Justice and Bureau of Alcohol, Tobacco, Firearms & Explosives within the United States Department of Justice will be notified. |
| 3-4-717: Promulgation of Regulations, Standards, and Other Legal Duties | Establishes that the City Manager or their designee is authorized to establish any additional regulations or standards regarding the local license requirements for a firearms or ammunition retail business. |

The full text for each recommended code amendment is included in Attachment 8, which is a redline of the amended BMC Sections.

Update on the Zone Text Amendment (ZTA)

Staff has convened an internal working group with stakeholders from the City Manager’s Office, City Attorney’s Office, the Police Department, and the Community Development Department’s Planning and Building and Safety Divisions to analyze additional long-term requests made by Council on July 26, 2022. The ZTA will focus on land use regulations and development standards.

As part of a ZTA, the working group is collaborating with a consultant to develop a regulatory framework aimed at addressing Council’s concerns about firearm retail uses in the community. Specifically, the working group is considering whether a congregation of firearm retailers along critical commercial corridors raises concerns for sustainable and economically diverse retail areas in the City, and whether there is a need to limit firearm

retail proximity to residential neighborhoods and sensitive-use locations like schools, places of worship, and public parks. The working group anticipates bringing a ZTA including buffer zones to address these community concerns. A project schedule for the completion of the ZTA is included as Attachment 9.

Consideration of Additional Business License Provisions

City staff will continue to look at the feasibility of codifying additional licensing requirements for firearm and ammunition retailers. The list below includes items that staff continues to research for feasibility of implementation and enforcement, and to avoid redundancy or conflict with existing state or federal laws:

- Requiring inventory reporting of the physical inventory in an existing firearm retailer.
- Prohibiting Gun Shows/Events in the City.
- Prohibiting firearms sales on public property.
- Additional on-site security requirements for firearm retailers.

The items on this list above will be considered as part of the proposed ZTA.

CONSISTENCY WITH THE GENERAL PLAN

The proposed project does not conflict with any of the goals, policies, or programs of the Burbank2035 General Plan. The adoption of the proposed amendments to the Business and Licenses section of the BMC is intended to establish a local program for the regulation of the sale, lease, or transfer of firearms or ammunition in the City. The adoption of the proposed Ordinance (Attachment 1) is consistent with Burbank2035 General Plan, Land Use Element, Goal 1, Policy 1.5 “Carefully review and consider non-residential uses with the potential to degrade quality of life”, and Safety Element, Goal 3, Policy 3.1 “Adapt to the changing safety needs of the community”.

ENVIRONMENTAL ASSESSMENT

The proposed Ordinance amending the BMC’s Business License regulations (the project) is categorically exempt from environmental review under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a “project” as that term is defined in Section 15378 of the State CEQA Guidelines.

FISCAL IMPACT

The City’s existing Fiscal Year (FY) 2022-2023 Adopted Citywide Fee Schedule includes fees for the review of Business License applications that are seeking renewal under the existing requirements in the City. The FY 2023-2024 Proposed Citywide Fee Schedule reflects a potential increase to this fee due to the additional review time required by City staff to ensure compliance with the proposed new firearm business license requirements. Any additional fiscal impacts and required fee adjustments resulting from the ZTA and future BMC changes would be brought forth later for Council consideration.

CONCLUSION

Based on Council direction, staff has prepared the proposed Ordinance (Attachment 1) to codify existing procedures practiced by the Business License Administration staff and would provide additional objective requirements applicable to a business wanting to engage in the sale, lease, or transfer of a firearm or ammunition. The proposed ordinance creates a comprehensive local program for obtaining a City license. Staff continues to work on identifying additional requirements that could be incorporated into the municipal code that address firearms or ammunition retail businesses, including additional zoning and land use regulations. As we adapt to the changing safety needs of the City, we are also addressing the potential impacts to quality of life. By regulating firearms and ammunition retail sales within the City through the proposed Ordinance, we are acting in the best interest of the health, safety, and general welfare of the community.

ATTACHMENTS

Attachment 1 – Ordinance

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

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

Attachment 4 – Extension of Urgency Ordinance 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 – City of Culver City Licensing and Security Requirements for Retail Establishments Selling Firearms and Ammunition

Attachment 7 – Burbank Municipal Code (BMC) Section Title 3-4-111: Firearms

Attachment 8 – Senate Bill 1384

Attachment 9 – Project Schedule
Correspondences