

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY PURSUANT TO GOVERNMENT CODE SECTION 65858(A) IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF NEW RETAIL USES ENGAGED IN FIREARM OR AMMUNITION SALES

WHEREAS, Government at all levels has a substantial interest in protecting the people from those who acquire firearms or ammunition 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, and particularly mass shootings; and

WHEREAS, since 2017, in California alone, mass shootings have occurred in San Bernardino, San Francisco, Bakersfield, Rancho Tehama, Yountville, San Bruno, Thousand Oaks, Poway, Gilroy, Orinda, Santa Clarita, Fresno, Orange, San Jose, Sacramento, Laguna Woods, and Oakland; and

WHEREAS, in addition, mass shootings have occurred nationwide in Las Vegas, Nevada; Edgewood, Maryland; Sutherland Springs, Texas; Melcroft, Pennsylvania; Parkland, Florida; Nashville, Tennessee; Santa Fe, Texas; Annapolis, Maryland; Cincinnati, Ohio; Perryman, Maryland; Aurora, Illinois; Virginia Beach, Virginia; El Paso, Texas; Milwaukee, Wisconsin; Atlanta, Georgia; Indianapolis, Indiana; Boulder, Colorado; Oxford, Michigan; Pittsburgh, Pennsylvania; Buffalo, New York; Uvalde, Texas; Chicago, Illinois; Tulsa, Oklahoma; and Raleigh, North Carolina; as well as the many other mass shootings over the past several years; and

WHEREAS, under the City's current City Code and Zoning Ordinance, the sale of firearms or ammunition is not regulated and is permitted by right in Commercial and Mixed-Use Zoning Districts; and

WHEREAS, many of the Commercial and Mixed-Use Zoning Districts include, are adjacent to, or are in close proximity to residential neighborhoods and other uses that include schools, child day care facilities, places of public assembly, community centers, parks, and libraries; and

WHEREAS, without an immediate moratorium, a new retail establishment selling firearms or ammunition could obtain a business license and building permits in the City in a short period of time; and

WHEREAS, other California cities have adopted zoning ordinances and business regulations that govern the sale of firearms or ammunition. The City of Burbank, Town of Los Gatos, the City of San Carlos, and the County of Santa Cruz all adopted moratoria on an urgency basis prohibiting new commercial sales of firearms or ammunition; and

WHEREAS, inquiries have been made regarding applications for new retail firearm establishments selling firearms or ammunition in the City near public and private school facilities, and other businesses that cater to children; and

WHEREAS, the City Council finds and declares that it has questions and concerns about retail establishments that sell firearms or ammunition locating adjacent to residential neighborhoods and in proximity to schools, child day care facilities, parks, libraries, places of public assembly, and other businesses that cater to children and seeks to study potential regulations and procedures to ensure the future locations of retail establishments that sell firearms or ammunition do not detrimentally impact the health, safety and welfare of residential neighborhoods and other, specific uses; and

WHEREAS, the City Council finds that it is necessary for City staff to study, develop, and propose regulations for review by the Planning Commission and City Council within a reasonable time regarding new retail establishments selling firearms or ammunition in the City; and

WHEREAS, the City Council finds that given the potential deleterious effect an otherwise lawful but unregulated establishments selling firearms or ammunition can have on other incompatible neighboring uses, adoption of this moratorium will provide City staff sufficient time to research this issue and present a comprehensive proposal to help ensure that the establishment of a retail 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; and

WHEREAS, in the absence of this moratorium, there is no way to study and consider the appropriate location of retail establishments that sell firearms or ammunition in the City, and where such establishments could be appropriately located in the City, and the nature and extent of health and safety regulations that should be imposed on such establishments due to the nature of the products they sell; and

WHEREAS, in the absence of a moratorium, the City will not have the authority to review new retail establishments selling firearms or ammunition under the current City Code and Zoning Ordinance, thus impairing the City's substantial interests in orderly, economically sustainable development, health, public safety, vitality and image of the City; and

WHEREAS, the City Council has directed City staff to review, develop, and propose for review by the Planning Commission and adoption by the City Council, an ordinance for appropriate zoning of retail establishments selling firearms or ammunition.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS FOLLOWS:

Section 1. Purpose and Findings.

A. The above recitals are true and correct, are incorporated herein, and are each relied upon independently by the City Council for its adoption of this Urgency Ordinance.

B. The City of Redwood City Zoning Ordinance and City Code do not currently include zoning or other regulations concerning the retail sale of firearms or ammunition, but instead considers these uses with other general retail uses.

C. There is a current and immediate threat to the public peace, health, welfare and safety, specifically including possible permanent damage to the City's aesthetic, health, safety and economic interests arising from the potential new retail uses selling firearms or ammunition considering the circumstances and effect such development would have on the City.

D. Maintaining the status quo zoning regulations has the potential to result in new 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 or 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.

E. In *Suter v. City of Lafayette* (1997) 57 Cal.App.4th 1109, the California Court of Appeal held that State law authorizes local governments to impose additional licensing requirements on firearms or ammunition dealers.

F. 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 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.

G. The City Council finds that it is necessary to adopt this Urgency Ordinance pursuant to Government Code Section 65858(a) in order to protect the public health, welfare, and safety.

Section 2. Imposition of Urgency Ordinance.

A. **Moratorium.** The City Council does hereby, pursuant to Government Code Section 65858(a), impose a moratorium for forty-five (45) days prohibiting the establishment of new retail uses engaged in firearm or ammunition sales.

Ten (10) days prior to the expiration of this Urgency Ordinance or any extension thereof, the City Council shall issue a written report describing the measures that have been taken to study the relevant issues and to establish policies and regulations regarding firearm or ammunition sales within the City.

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 one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles and includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, ammunition feeding device, or projectile capable of being fired from a firearm with a deadly consequence. “Ammunition” does not include blanks.

“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. **Pending Applications.** As to applications for permits or business licenses for a new retail establishment engaged in firearm or ammunition sales 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 Urgency Ordinance or any extensions thereof.

Section 3. Environmental Analysis. This Urgency Ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3), because the Urgency Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and only directs that a planning study be undertaken.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance. The City Council of the City of Redwood City hereby declares that it would have adopted this Urgency Ordinance and such section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

Section 5. Applicability. This is an Urgency Ordinance and requires a 5/7 vote of approval of all the members of the City Council and goes into effect immediately upon its adoption.

Section 6. Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

THE FOREGOING URGENCY ORDINANCE was introduced and adopted, effective immediately, at a regular meeting of the City Council of the City of Redwood City held on October 24, 2022, by the following vote:

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