



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Board of Supervisors



DATE: November 20, 2009
BOARD MEETING DATE: November 24, 2009
SPECIAL NOTICE/HEARING: no
VOTE REQUIRED: majority

TO: Legislative Standing Committee
FROM: Supervisor Rose Jacobs Gibson
SUBJECT: Ordinances Regulating Firearms Dealers and Ammunition Sellers; and Requiring the Reporting of Lost or Stolen Firearms.

RECOMMENDATION:

Adopt ordinances:

- (1) Regulating Firearms Dealers and Ammunition Sellers;
- (2) Requiring the Reporting of Lost or Stolen Firearms; and

BACKGROUND:

Youth gun possession and violence have reached epidemic proportions in our local communities and throughout the Bay Area. As President of The Association of Bay Area Governments' (ABAG), I expanded ABAG's definition of what it means to create sustainable, healthy communities. Along with environmentally sustainable design and economic development, public safety is a key ingredient in building communities where residents, particularly young people, can grow and succeed. With the health of our communities in mind, I initiated ABAG's Youth Gun Violence Task Force to develop common sense approaches to keeping guns out of the hands of young people.

The Task Force has focused on a series of model resolutions and model ordinances recommended by the Legal Community Against Violence (LCAV). Task Force members have met with law enforcement to receive feedback on the model ordinances and resolutions, and I have received positive feedback from law enforcement officials throughout San Mateo County.

Specifically, I met with the District Attorney and the Sheriff to discuss the ordinances and resolutions. Additionally, I received written responses from an officer in the Gang Intelligence Unit and our Chief Probation Officer. I met with Ronald Davis, East Palo Alto's Police Chief, and Chief Davis arranged for me to present the ordinances and resolutions at the San Mateo County Police Chief's Association County Wide Issues

Attachment V
Legislative Committee Meeting (2009-11-24)

Committee meeting. At this meeting, I was able to speak with over forty law enforcement officers about our Task Force and the ordinances and resolutions.

On June 18, 2009, the Task Force convened a meeting of organizations and interest groups concerned about youth gun possession and violence. Approximately 50 individuals representing youth organizations, probation, police, physicians, education and other stakeholder organizations and staff participated in the half-day session that was met with overwhelming support and enthusiasm. The clear outcome was to support the passage of a slate of model resolutions and ordinances in local government agencies throughout the Bay Area to reduce youth gun possession and violence.

On September 17, 2009, the ABAG Executive Board approved the slate of model resolutions and ordinances, and urged member jurisdictions to do the same. This Board adopted the ABAG/LCAV model resolutions on November 10, 2009.

DISCUSSION:

I urge the Legislative Committee to adopt the following ordinances in order to minimize the risks caused by handguns, to reduce the risks created when adults illegally transfer guns to minors, and to make our community a safer place to live.

From 1999 to 2006, over thirty thousand children and young people under the age of twenty-one died from gunshot wounds in the United States. From 1991 through 2007, gunshot wounds killed 113 San Mateo County residents under the age of twenty-one. These sobering statistics impact everyone in our community, and create negative outcomes like post-traumatic stress disorder, public health challenges, and neighborhood deterioration. All too often, youth who are not old enough to legally purchase a firearm are the perpetrators. Tragically, adults are sometimes responsible for providing the young persons with illegal guns. The model ordinances are an effort to address youth gun possession and violence.

Ordinance regulating firearms dealers and ammunition sellers. Federal and state regulation of firearms dealers and ammunition sellers is currently inadequate to protect public safety. The ordinance would apply to any person in the unincorporated area of the County who engages in the business of "selling, leasing or transferring of any firearm, firearm component, or ammunition, or to hold one's self out as engaged in the business of selling, leasing or otherwise transferring any firearm, firearm component, or ammunition, or to sell, lease or transfer firearms, firearm components, or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade." The ordinance requires firearms dealers and ammunition sellers to obtain an annual permit from the Sheriff, following background checks on employees, specified security measures, and maintenance of ammunition sales logs. The Sheriff's determination may be appealed to the License Board, whose decision shall be final. The business premises may not be located in a residential area, or within 1,500 feet of any school, pre-school, day-care facility, park, community center, place of worship, liquor store, bar, youth center, video arcade, amusement park (not including a temporary carnival or similar event), or other permittee. These local requirements will help ensure

that these businesses operate responsibly.

Ordinance requiring the reporting of lost or stolen firearms. Owners of firearms will be required to report the loss or theft of a firearm within 48 hours of the time he or she knew or reasonably should have known of such loss or theft. Laws requiring information about lost or stolen firearms help law enforcement expose and prosecute criminals and gun traffickers, who often falsely claim that their guns have been lost or stolen and used by youth and others to commit crimes. This ordinance will also help law enforcement return lost or stolen firearms to their lawful owners and disarm persons prohibited by law from firearm possession. In addition, these requirements will make gun owners more accountable for their weapons, and help protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene.

FISCAL IMPACT:

The Sheriff is assessing the anticipated fiscal impact.

ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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**AN ORDINANCE ADDING CHAPTER 3.57 TO TITLE 3 OF THE SAN MATEO
COUNTY ORDINANCE CODE,
REGULATING FIREARMS DEALERS AND AMMUNITION SELLERS IN THE
UNINCORPORATED AREA OF THE COUNTY OF SAN MATEO**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. SALE OF FIREARMS AND AMMUNITION

Chapter 3.57 is hereby added to Title 3 (Public Safety, Morals and Welfare) of the San Mateo County Ordinance Code to read as follows:

**CHAPTER 3.57 REGULATING FIREARMS DEALERS AND AMMUNITION SELLERS
IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN MATEO**

3.57.010 Purpose.

The San Mateo County Board of Supervisors adopts this ordinance in light of the following findings:

- A. In 2006, 3,253 people died from firearm-related injuries in California and 4,305 other people were treated for non-fatal gunshot wounds, and
- B. Federal laws are silent regarding many important aspects of the dealer's business, such as its location (leaving dealers free to operate out of their homes and near schools and other places children frequent) and security requirements during business hours, and
- C. California is among a minority of states that impose licensing requirements on firearms dealers, but the standards are minimal, and
- D. The International Association of Chiefs of Police recommends that local governments impose their own licensing requirements on firearms dealers because local requirements can respond to specific community concerns, and local review of licensees provides additional resources to identify and stop corrupt dealers, and

E. No federal or California law imposes security requirements on firearms dealers during business hours or requires firearms dealers or ammunition sellers to install burglar alarms or surveillance cameras, and California Penal Code § 12071(b)(15) law explicitly allows local jurisdictions to impose security requirements on firearms dealers that are stricter or at a higher standard than those imposed by state law, and

F. No federal or California law requires agents and employees of firearms dealers or ammunition sellers to undergo background checks. California law explicitly permits local jurisdictions to require firearms dealers to perform such background checks, and no federal or California law requires firearms dealers to obtain liability insurance, prohibits firearms dealers or ammunition sellers from operating in residential neighborhoods or near schools, daycare centers, or parks, and

G. California law requires persons who sell, loan or transfer firearms within California to obtain a license, but does not require persons who sell, loan or transfer ammunition to do so, and

H. The City of Sacramento has enacted an ordinance requiring ammunition sellers to record the thumbprint of each purchaser and to electronically transmit the records of ammunition sales to the Sacramento Police Department which has led to the identification of 156 prohibited persons who had purchased ammunition and 109 felony charges and 10 federal court indictments, and the seizure of 84 firearms, including seven assault weapons, and thousands of rounds of ammunition, and

I. On October 11, 2009, Governor Schwarzenegger signed a new law, AB 962 (De Leon), to require handgun ammunition sellers to create and maintain records of handgun ammunition sales and transfers, effective February 1, 2011. No federal or state law, however, requires ammunition sellers to create or maintain records of sales or transfers prior to that date, or requires vendors to create or maintain records of sales or transfers of ammunition that is not principally for use in handguns, and

J. Although AB 962 (De Leon) also requires handgun ammunition sellers to store handgun ammunition so that it is inaccessible to customers without assistance from the seller or an employee, effective January 1, 2010, no federal or state law governs the way sellers store ammunition that is not principally for use in handguns.

3.57.011 Definitions.

(a) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, and any component thereof, but shall not include blank cartridges or ammunition that can be used solely in an "antique firearm" as that term is defined in section 921(a)(16) of Title 18 of the United States Code.

(b) "Applicant" means any person who applies for a law enforcement permit, or the renewal of such a permit, to sell, lease or transfer firearms, firearm components, or

ammunition.

(c) "Sheriff" means the Sheriff or the Sheriff's designated representative.

(d) "Firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion, provided that the term "firearm" shall not include an "antique firearm" as defined in section 921(a)(16) of Title 18 of the United States Code.

(e) "Permittee" means any person, corporation, partnership or other entity engaged in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition, which person or entity has obtained a law enforcement permit to sell, lease or transfer firearms, firearm components, or ammunition.

(f) To "engage in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition" means to conduct a business by the selling, leasing or transferring of any firearm, firearm component, or ammunition, or to hold one's self out as engaged in the business of selling, leasing or otherwise transferring any firearm, firearm component, or ammunition, or to sell, lease or transfer firearms, firearm components, or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

3.57.012 Law enforcement permits.

It is unlawful for any person, corporation, partnership or other entity to engage in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition within the unincorporated area of the County without a law enforcement permit, as set forth in this Chapter.

3.57.013 Application for permit.

(a) An applicant for a permit or renewal of a permit under this Chapter shall file with the Sheriff an application in writing, signed under penalty of perjury, on a form prescribed by the Sheriff. The applicant shall provide all relevant information requested to demonstrate compliance with this Chapter, including:

- (1) The applicant's name, including any aliases or prior names, age and address;
- (2) The applicant's federal firearms license and California firearms dealer numbers, if any;
- (3) The address of the proposed location for which the permit is sought, together with the business name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the business;
- (4) The names, ages and addresses of all persons who will have access to or control of workplace firearms, firearm components, or ammunition, including but not limited to, the applicant's employees, agents and/or supervisors, if any;

- (5) A certificate of eligibility from the state Department of Justice under Penal Code Section 12071 for each individual identified in Sec. 3.57.013, demonstrating that the person is not prohibited by state or federal law from possessing firearms or ammunition;
- (6) Proof of a possessory interest in the property at which the proposed business will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which the applicant's business is to be located and conducted, the written consent of the owner of record of such real property to the applicant's proposed business;
- (7) A floor plan of the proposed business which illustrates the applicant's compliance with security provisions specified in this Chapter;
- (8) Proof of compliance with all applicable federal, state and local licensing and other business laws;
- (9) Information relating to every license or permit to sell, lease, transfer, purchase, or possess firearms, firearm components or ammunition which was sought by the applicant from any jurisdiction in the United States, including, but not limited to, the date of each application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;
- (10) The applicant's agreement to indemnify, defend and hold harmless the County and its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the application for the permit and/or the operation of the business, including attorneys fees, arising in any manner out of the negligence or intentional or willful misconduct of:
 - (A) The applicant;
 - (B) The applicant's officers, employees, agents and/or supervisors; or
 - (C) If the business is a corporation, partnership or other entity, the officers, directors or partners.

- (12) Certification of satisfaction of insurance requirements, for applicants applying for a permit to sell firearms or firearm components;
- (13) The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States.
 - (b) The application shall be accompanied by a nonrefundable fee for administering the permit process in an amount to be established by Board of Supervisors resolution.

3.57.014 Investigation by Sheriff and employee background checks.

- (a) The Sheriff shall conduct an investigation to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed. The Sheriff shall require the following individuals to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, and any additional information which the Sheriff considers necessary to complete the investigation:

(1) The applicant;

(2) All persons who will have access to or control of workplace firearms, firearm components or ammunition, including but not limited to the applicant's employees, agents and/or supervisors, if any.

(b) Prior to issuance or renewal of the permit, the Sheriff shall inspect the premises to ensure compliance with this Chapter.

(c) The Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this Chapter and all other applicable federal, state and local laws.

3.57.015 Grounds for permit denial or revocation.

(a) The Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the business would not or does not comply with federal, state or local law, or if the applicant or permittee:

(1) Is under 21 years of age;

(2) Is not licensed as required by all applicable federal, state and local laws;

(3) Has made a false or misleading statement of a material fact or omission of a material fact in the application for a law enforcement permit, or in any other documents submitted to the Sheriff pursuant to this Chapter. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;

(4) Has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;

(5) Has been convicted of:

(A) An offense which disqualifies that person from owning or possessing a firearm under federal, state or local law, including, but not limited to, the offenses listed in Penal Code Sections 12021 and 12021.1;

(B) An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;

(C) An offense involving the use of force or violence upon the person of another;

(D) An offense involving theft, fraud, dishonesty or deceit;

(E) An offense involving the manufacture, sale, possession or use of a controlled

substance as defined by the state Health and Safety Code;

(6) Is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103, or any other provisions of state law that prevents the possession of a firearm; or

(7) Is currently, or has been within the past five years, an unlawful user of or addicted to a controlled substance as defined by the Health and Safety Code.

(b) Employees, agents or supervisors of the applicant or permittee may not have access to or control over workplace firearms, firearm components or ammunition until the Sheriff has conducted an investigation pursuant to Sec. 3.57.014(a)(2), and verified that none of the conditions listed in this section exist, as applied to those employees, agents or supervisors. A new law enforcement investigation and background verification of each such person must be conducted each time the permittee renews his or her permit, or applies for a new permit. Except as provided in subsection (c), the Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the applicant or permittee allows any employee, agent or supervisor to have access to or control over workplace firearms, firearm components or ammunition prior to the completion of the law enforcement investigation and background verification of those persons, or if those persons have not undergone the law enforcement investigation and background verification process within the last 365 days.

(c) Where an applicant is applying for a law enforcement permit to sell, lease or transfer firearms, firearm components or ammunition within the first 90 days of the effective date of this Chapter, and where the applicant has a pre-existing firearms dealer business which complies with all applicable federal, state and local laws, or is not a firearms dealer but is already engaged in the sale of ammunition:

(1) The applicant's current employees, agents or supervisors may continue to have access to or control over workplace firearms, firearm components and ammunition pending the completion of the Sheriff's investigation and background verification.

(2) Where one or more of the applicant's employees, agents or supervisors are found to be in violation of the conditions enumerated in subsection (b), the applicant shall have 21 days from the mailing of written notification from the Sheriff to verify that such persons have been removed or reassigned so that they no longer have access to or control of workplace firearms, firearm components or ammunition. Failure of the applicant to comply with this subsection shall cause the Sheriff to deny the application for a law enforcement permit.

(d) The law enforcement permit of any person or entity found to be in violation of any of the provisions of this Chapter may be revoked.

3.57.016 On-site security.

Attachment VI
Legislative Committee Meeting (2009-11-24)

(a) If the proposed or current business location is to be used at least in part for the sale of firearms or firearm components, the permitted place of business shall be a secure facility within the meaning of Penal Code Section 12071(c)(2).

(b) If the proposed or current business location is to be used at least in part for the sale of firearms or firearm components, all heating, ventilating, air-conditioning, and service openings shall be secured with steel bars or metal grating.

(c) Any time a permittee is not open for business, every firearm or firearm component shall be stored in one of the following ways:

(1) In a locked fireproof safe or vault in the licensee's business premises that meets the standards for a gun safe implemented by the Attorney General pursuant to Penal Code Section 12088.2; or

(2) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(d) Any time a permittee is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the permittee:

(1) Secured within a locked case so that a customer seeking access to the firearm must ask an employee of the permittee for assistance;

(2) Secured behind a counter where only the permittee and the permittee's employees are allowed. During the absence of the permittee or a permittee's employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or

(3) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(e) Any time a permittee is open for business, every firearm component, and any ammunition that is not principally for use in pistols, revolvers, or other firearms capable of being concealed upon the person, as that term is defined in Penal Code § 12001(a), shall be inaccessible to the public and secured using one of the methods mentioned in

subsection (d)(1) or (2), except in the immediate presence of and under the direct supervision of an employee of the permittee.

(f) The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business & Professions Code Sections 7590 *et seq.* The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a #3 extent of protection.

(g) The permitted business location shall be monitored by a video surveillance system that meets the following requirements:

(1) The system shall include cameras, monitors, digital video recorders, and cabling, if necessary.

(2) The number and location of the cameras are subject to the approval of the Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms, firearm components or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults, cabinets, cases, entryways, and parking lots. The video surveillance system shall operate continuously, without interruption, whenever the permittee is open for business. Whenever the permittee is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area.

(2) In addition, the sale or transfer of a firearm, firearm component or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible.

(3) When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than 15 frames per second. The system must produce retrievable and identifiable images and video recordings on media approved by the Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises.

(4) The stored images shall be maintained on the business premises of the permittee for a period not less than one year from the date of recordation and shall be made available for inspection by federal, state or local law enforcement upon request.

(5) The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within fifteen calendar days. The permittee must inspect the system at least weekly to ensure that it

is operational and images are being recorded and retained as required.

(6) The permittee shall post a sign in a conspicuous place at each entrance to the premises that states in block letters not less than one inch in height: THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.

(h) The Sheriff may impose security requirements in addition to those listed in this section prior to issuance of the law enforcement permit. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the law enforcement permit by the Sheriff.

3.57.017 Liability insurance.

(a) If the proposed or current business location is to be used for the sale of firearms or firearm components, no law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the County and executed by an insurance company approved by the County, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a firearm, firearm component or ammunition, or any other operations of the business. The policy shall also name the County and its officers, employees and agents as additional insureds. The limits of liability shall not be less than \$1,000,000 for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the County if deemed necessary.

(b) The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the County Manager or the Manager's designee at least 30 days prior to the time the cancellation becomes effective.

(c) Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice.

3.57.018 Location of Business Premises.

(a) The business shall be carried on only in the building located at the street address shown on the permit. This requirement does not prohibit the permittee from participating in a gun show or event which is authorized by federal, state and local law upon compliance with those laws.

(b) The business premises shall not be located in any district or area that is zoned for residential use, or within 1,500 feet of any school, pre-school, day-care facility, park, community center, place of worship, liquor store, bar, youth center, video arcade, amusement park (not including a temporary carnival or similar event), or other permittee as defined in 3.57.011.

3.57.019 Ammunition sales records.

(a) No permittee or any agents, employees, or other persons acting under the permittee's authority shall sell or otherwise transfer ownership of any ammunition without verifying the identity of the transferee and recording the following information on a form to be provided by the Sheriff:

(1) The date of the transaction;

(2) The name, address and date of birth of the transferee;

(3) The number of the transferee's current driver's license or other government-issued identification card containing a photograph of the transferee, and the name of the governmental authority that issued it;

(4) The brand, type, caliber or gauge, and amount of ammunition transferred;

(5) The transferee's signature; and

(6) The name of the permittee's agent or employee who processed the transaction.

(b) The permittee and any agents, employees, or other persons acting under the permittee's authority shall also, at the time of purchase or transfer, obtain the right thumbprint of the transferee on the above form.

(c) Within five calendar days of a firearm ammunition transfer, the permittee and any agents, employees, or other persons acting under the permittee's authority shall electronically transmit to the Sheriff's Department all of the information set forth in paragraph (a). The electronic transmittal shall be by a method, and in a format, approved by the Sheriff.

(d) The records created in accordance with this section must be maintained on the business premises of the permittee for a period not less than five years from the date of the recorded transfer and shall be made available for inspection by federal, state or local law enforcement upon request.

(e) Within one year of the effective date of this Chapter, the Sheriff shall submit a report to the County Board of Supervisors regarding the ammunition sales records maintained since the effective date of this section. The report shall state information including, but not limited to: the number of prohibited persons who had purchased ammunition and who were identified through use of these records, as well as the number of searches, arrests, and investigations performed, charges filed, convictions obtained and firearms, firearm components and ammunition seized, as a result of these records.

(f) This section shall not apply if the transferee is:

(1) A "peace officer" as that term is defined in Penal Code § 830 *et seq.*, or a federal law enforcement officer; or

(2) A person licensed as a dealer or collector in firearms pursuant to Chapter 44 (commencing with Sec. 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) Effective February 1, 2011, this section shall not apply to the sale or transfer of ammunition that is principally for use in pistols, revolvers, or other firearms capable of being concealed upon the person, as that term is defined in Penal Code § 12001(a).

3.57.020 Restricted admittance of minors and other prohibited purchasers.

(a) Where firearm sales activity represents 50% or more of the gross receipts resulting from all activities conducted at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow the following persons to enter into or remain on the premises unless accompanied by his or her parent or legal guardian:

(1) Any person under 21 years of age, if the permittee sells, keeps or displays firearms capable of being concealed on the person; or

(2) Any person under 18 years of age, if the permittee sells, keeps or displays only firearms other than firearms capable of being concealed on the person.

(b) Where firearm sales activity is the primary business performed at the business premises, the permittee and any of his or her agents, employees, or other persons acting under the permittee's authority shall be responsible for requiring clear evidence of age and identity of persons to prevent the entry of persons not permitted to enter the premises pursuant to subsection (a) by reason of age. Clear evidence of age and identity includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, or an employment identification card which contains the bearer's signature, photograph and age, or any similar documentation which provides reasonable assurance of the identity and age of the individual.

(c) The permittee shall post the following conspicuously at each entrance to the establishment in block letters not less than one inch in height:

(1) If the permittee sells, keeps or displays firearms capable of being concealed on the person, the sign shall state, "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 21 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."

(2) If the permittee sells, keeps or displays only firearms other than firearms capable of

being concealed on the person, the sign shall state, "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 18 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."

(d) Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow any person to enter into or remain on the premises who the permittee or any of his or her agents, employees, or other persons acting under the permittee's authority knows or has reason to know is prohibited from possessing or purchasing firearms pursuant to federal, state, or local law.

3.57.021 Inventory reports.

Within the first five business days of April and October of each year, the permittee shall cause a physical inventory to be taken that includes a listing of each firearm and firearm component held by the permittee by make, model, and serial number, together with a listing of each firearm and firearm component the permittee has sold since the last inventory period. In addition, the inventory shall include a listing of each firearm lost or stolen that is required to be reported pursuant to Penal Code Section 12071(b)(13). Immediately upon completion of the inventory, the permittee shall forward a copy of the inventory to the address specified by the Sheriff. With each copy of the inventory, the permittee shall include an affidavit signed by an authorized agent or employee on behalf of the permittee under penalty of perjury stating that within the first five business days of that April or October, as the case may be, the signer personally confirmed the presence of the firearms and firearm components reported on the inventory. The permittee shall maintain a copy of the inventory on the premises for which the law enforcement permit was issued for a period of not less than five years from the date of the inventory and shall make the copy available for inspection by federal, state or local law enforcement upon request.

3.57.022 Display of law enforcement permit.

The law enforcement permit, or a certified copy of it, shall be displayed in a prominent place on the business premises where it can be easily seen by those entering the premises.

3.57.023 Issuance of law enforcement permit – Duration.

(a) A law enforcement permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by Board of Supervisors resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this Chapter. Sheriff's department personnel shall inspect the permitted business premises for compliance with this Chapter prior to renewal of the permit. The

renewal application and the renewal fee must be received by the Sheriff's department no later than 45 days before the expiration of the current permit.

(b) A decision regarding issuance or renewal of the law enforcement permit may be appealed in the manner provided in this Chapter.

3.57.024 Nonassignability.

A law enforcement permit issued under this Chapter is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit.

3.57.025 Compliance by existing businesses.

A person engaged in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition on the effective date of this Chapter shall, within 90 days of the effective date, comply with the requirements of this Chapter. However, any person whose business is located, as of the effective date of this Chapter, in any location described in section 3.57.018, may continue to sell, lease, or transfer firearms, firearm components, or ammunition for up to one year after the effective date of this Chapter. After the one-year period has expired, all such persons are prohibited from selling, leasing or transferring firearms, firearm components, or ammunition in the named locations.

3.57.026 Law enforcement inspections.

Permittees shall have their places of business open for inspection by federal, state and local law enforcement during all hours of operation. The Sheriff's Office shall conduct periodic inspections of the permittee's place of business without notice. Permittees shall maintain all records, documents, firearms, firearm components and ammunition in a manner and place accessible for inspection by federal, state and local law enforcement.

3.57.027 Warning regarding secondary sales.

A permittee shall post conspicuously within the licensed premises the following warning in block letters not less than one inch in height: **WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A DEALER RECORD OF SALE (DROS) FORM AT A LICENSED FIREARMS DEALERSHIP.**

3.57.028 Penalties.

(a) Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Chapter be punished by a fine of not more than \$1,000 or by imprisonment for a period not exceeding six months, or by both. Each such person shall be guilty of a separate

offense for each and every day during any portion of which a violation of any provision of this Chapter is committed or continued by such person and shall be punishable accordingly.

(b) In addition to any other penalty or remedy, the County Counsel may commence a civil action to seek enforcement of these provisions.

3.57.029 Report of permit revocation to federal and state authorities.

In addition to any other penalty or remedy, the Sheriff shall report any person or entity whose law enforcement permit is revoked pursuant to this Chapter to the Bureau of Firearms of the California Department of Justice and the Bureau of Alcohol, Tobacco, Firearms & Explosives within the U.S. Department of Justice.

3.57.030 Hearing for permit denial or revocation.

(a) Within ten days of the Sheriff mailing a written denial of the application or revocation of the permit, the applicant may appeal by requesting a hearing before the Sheriff. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Sheriff shall set a time and place for the hearing within 30 days.

(b) The Sheriff shall provide a written decision regarding the appeal within 14 calendar days of the hearing. An applicant may appeal the decision of the Sheriff to the License Board, according to the procedures set forth in Chapter 5.04 of this Ordinance Code. Notwithstanding section 5.04.180 of this Code, the process for the License Board consideration of the law enforcement permits required by this Chapter shall be a hearing at which the License Board shall consider: (1) the Sheriff's recommendation and the supporting information, (2) any information presented by the applicant, who may present any facts to show why the license should be granted, and (3) other statements of other persons who may present reasons why the license should or should not be granted. Notwithstanding section 5.04.230 of this Code, the decision of the License Board shall be final.

A permittee shall post conspicuously within the licensed premises the following warning in block letters not less than one inch in height: WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A DEALER RECORD OF SALE (DROS) FORM AT A LICENSED FIREARMS DEALERSHIP.

SECTION 2. If any section, subsection, sentence or clause of this Ordinance is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Ordinance or any part thereof. The County Board of Supervisors hereby declares that it would have adopted this Chapter notwithstanding the

unconstitutionality.

SECTION 3. This Ordinance shall be effective thirty (30) days from the passage date thereof.

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ORDINANCE NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

**AN ORDINANCE ADDING CHAPTER 3.55 TO TITLE 3 OF THE SAN MATEO
COUNTY ORDINANCE CODE, REQUIRING THE REPORTING OF LOST OR
STOLEN FIREARMS**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. Chapter 3.55 is hereby added to Title 3 (Public Safety, Morals and
Welfare) of the San Mateo County Ordinance Code, to read as follows:

CHAPTER 3.55 REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS

3.55.010 Purpose.

The San Mateo County Board of Supervisors adopts this ordinance in light of the
following findings:

- A. In 2006, 3,253 people died from firearm-related injuries in California and 4,305 other people were treated for non-fatal gunshot wounds,
- B. Federal and California law require licensed firearms dealers to report the loss or theft of firearms to law enforcement within 48 hours.
- C. When a crime gun is traced by law enforcement to the last purchaser of record, the owner may falsely claim that the gun was lost or stolen to hide his or her involvement in the crime or in gun trafficking. Reporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it.
- D. When a person who legally owned a gun falls into a prohibited category, it is crucial that law enforcement remove the firearm from his or her possession. Reporting laws help disarm prohibited persons by deterring them from falsely claiming that their firearms were lost or stolen.
- E. Existing reporting laws, like California's requirements that firearms dealers report the lost or theft of firearms and that motorists report serious automobile accidents to the Department of Motor Vehicles, demonstrate that reporting laws

are not unduly burdensome. Moreover, the highly lethal nature of firearms justifies an increased level of responsibility over that required for ownership of other, less dangerous products; *Whereas*, reporting laws protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene, and make it easier for law enforcement to locate a lost or stolen firearm and return it to its lawful owner.

- F. The extreme danger firearms pose to public safety requires a heightened level of accountability on the part of individuals who choose to own firearms. Reporting laws make gun owners more accountable for their weapons.
- G. Neither federal nor California law contains any requirement that firearm owners report lost or stolen firearms.
- H. Several states, several major cities across the nation, and several local governments in California already require the reporting of lost or stolen firearms.
- I. A December 2008 report by Mayors Against Illegal Guns (a coalition of over 300 mayors that targets illegal guns nationwide) states that lost or stolen firearm reporting laws “can help law enforcement more easily identify and prosecute gun traffickers.” The report presents data showing that states that require the reporting of lost or stolen firearms export crime guns to other states at less than one-third the rate of states that do not have lost or stolen reporting laws.
- J. In a 2007 report, The International Association of Chiefs of Police states, “law enforcement’s early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence.” The report recommends that state and local governments mandate reporting of lost or stolen firearms.
- K. A 2008 survey of Americans’ attitudes toward gun violence prevention measures found almost unanimous support for requiring the reporting of lost or stolen gun. For example, state laws regulating junk guns and requiring trigger locks were enacted only after numerous local communities in California adopted these measures.

3.55.020 Reporting of Loss or Theft of Firearm.

- (a) It is unlawful for any person to fail to report to the Sheriff’s Office the theft or loss of a firearm he or she owns or possesses within forty eight (48) hours of the time he or she knew or reasonably should have known that the firearm has been stolen or lost, if the person resides in unincorporated area of the County or the loss or theft occurs in the unincorporated area of City/County.
- (b) Pursuant to Penal Code § 11108, the Sheriff shall submit a description of each firearm which has been reported lost or stolen directly into the California Department of Justice automated property system for firearms.

3.55.030 Exceptions.

Section 3.55.020 shall not apply to the following persons:

- a) Law enforcement officials while engaged in their official duties;
- b) Members of the Armed Forces of the United States or the National Guard while engaged in their official duties;
- c) Firearms dealers and manufacturers licensed under federal and state law while engaged in the course and scope of their activities as licensees.

3.55.040 Penalty.

- a) Any person violating section 3.55.020 is guilty of a misdemeanor;
- b) Any person who reports to any law enforcement officer, pursuant to section 3.55.020 of this ordinance, that a firearm has been lost or stolen, knowing the report to be false, is guilty of a misdemeanor.

3.55.050 Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity or the enforceability of the remaining portions of this chapter or any part thereof. The County Board of Supervisors hereby declares that it would have adopted this chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

SECTION 2. This Ordinance shall be effective thirty (30) days from the passage date thereof.

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