



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Consideration of a 45-Day Moratorium on New Firearms Retailers

1. Introduction of an Interim Urgency Ordinance Prohibiting New Firearms Retailers

COUNCIL ACTION

Item Type: Action Item

Approved for July 25, 2023 **calendar**

EXECUTIVE SUMMARY

Council has requested the consideration of a moratorium on new firearms retailers in the City. This is based on the desire to preserve the public health, safety, and general welfare and for staff to consider the impacts of such retailers in light of recent mass shooting events regionally and nationally. The following report provides federal, state, and local laws, in addition to details on the current status of gun retailer activity in Glendale.

COUNCIL PRIORITIES

N/A.

RECOMMENDATION

Adopt the proposed urgency ordinance establishing a moratorium on the issuance of new licenses for firearms dealers. The City Council may adopt an urgency ordinance as an emergency measure to preserve the public health, safety, and general welfare.

BACKGROUND

Federal, State, and Local Laws

Federal, state, and local laws govern the sale and possession of firearms. The Gun Control Act of 1968 (GCA) is the primary vehicle for federal regulation of firearms and, among other things, requires individuals dealing in firearms to obtain a Federal Firearms License.

The GCA bars Federal Firearms Licensees (FFLs) from knowingly selling or transferring a firearm to certain individuals (“prohibited possessors”) including felons, unlawful narcotics users, persons with domestic violence restraining orders, and persons experiencing severe mental illness. FFLs are also bound by the minimum age requirements in the GCA and may not sell a shotgun or rifle to individuals under 18 years old or a handgun to individuals under 21 years old. The law further stipulates that FFLs must maintain records of the acquisition, transfer, and disposition of firearms. In accordance with the Brady Handgun Violence Prevention Act of 1993, FFLs must also conduct background checks on firearms purchasers. In California, firearms retailers submit information on a prospective buyer to the California Department of Justice (Cal DOJ), which serves as a point of contact for the FBI’s National Instant Criminal Background Check System and searches records in relevant national and state databases to confirm whether or not an individual is a prohibited possessor. In 1994, the Violent Crime Control and Law Enforcement Act further required that prospective FFLs submit photographs and fingerprints as part of their application for licensure and certify that their business complies with all state and local laws, including zoning regulations.

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) serves as the federal regulatory body for FFLs, issuing licenses and inspecting retailers for compliance with national firearms laws by conducting comprehensive, unannounced on-site audits. The Firearms Owners’ Protection Act of 1986 limits these warrantless compliance inspections to one per every 12-month period, and any FFL who refuses to adhere to the examination may lose their license or be denied a renewal. ATF agents may inspect a retailer’s business premises, storage areas, inventory, and acquisition and sales logs, and if found out of compliance, the retailer may be issued a penalty ranging from a warning letter to revocation of their license. During the federal government’s 2020 Fiscal Year (October 2019 to September 2020), the ATF conducted 5,823 audits of retailers nationwide, revoking a total of 40 licenses. The Los Angeles Field Division of the ATF conducted 209 audits and issued 15 warning letters, with no license revocations. Although the ATF posts summary audit data on its website, audit results for specific

retailers are not publicly available but may be obtained through Public Disclosure Requests, which typically take 90 days to process.

At the state level, various laws regulate the activities of firearms dealers in California. In addition to a federal firearms license from the ATF, retailers must obtain a Certificate of Eligibility (COE) from Cal DOJ, a seller's permit from the California Department of Tax and Fee Administration, and a valid listing on Cal DOJ's Centralized List of Firearms Dealers. With few exceptions, California law establishes a minimum age of 21 to purchase a firearm; prohibits an individual from purchasing more than one handgun within a 30-day period; and requires that private party transfers be conducted by a licensed firearms dealer. Prospective buyers must show proof of California residency, possess a valid Firearm Safety Certificate, and perform a safe handling demonstration in the presence of a Cal DOJ-certified instructor. When conducting a sale, firearms retailers must submit a Dealer Record of Sale (DROS) to Cal DOJ with identifying information for both the retailer and the purchaser, prompting a mandatory 10-day waiting period during which a background check is conducted. All firearms sold or transferred in California by a licensed retailer must also be accompanied by a Cal DOJ-approved firearms safety device (i.e., gun safe or lock) in an effort to prevent minors and unauthorized users from accessing or firing the weapon. California law also bans the manufacture, import, and sale of assault weapons, which includes semiautomatic firearms with large magazines designed for rapid fire, such as AK-47s and AR-15s.

Like the ATF, Cal DOJ conducts independent audits of retailers in the state. Every two years, the agency completes an on-site inspection of firearms retailers that includes a spot check of inventory and examination of paperwork. Businesses that fail an audit may receive an administrative write-up or possibly lose their COE, barring them from operating as a firearms retailer in California. Cal DOJ inspection outcomes are not published but may be obtained through a Public Records Act request.

ANALYSIS

Within the City of Glendale, there are specific zoning designations and locations where firearm retail uses are allowed by-right. This is in the Commercial Districts of C2, C3, CR, and CH zone, and Mixed-Use Districts of IMU and IMU-R. To obtain a local firearms dealer license, business owners must satisfy federal and state licensing requirements, undergo a review of their business location by the Community Development Department for compliance with zoning laws, and submit an application for a revokable permit for the Retail Sales of Concealable Weapons which is authorized by the Chief of Police. This permitting process includes a review of the applicants Department of ATF Federal Firearms License, Department of Justice Certificate of Eligibility, California State Board of Equalization Seller's Permit and California Driver's License.

Timeline of Licensed Retailers in the City

As of April 2023, Glendale has six licensed firearms dealers, with the first retailer licensed in 1991 and the two most recent licenses issued in 2021.

Surrounding cities are included below as a comparison.

Municipality	Firearms Dealers	Per Capita Rate
Burbank	14	1 per 7,386 residents
Glendale	6	1 per 32,061 residents
Pasadena	3	1 per 47,339 residents
Los Angeles	36	1 per 110,277 residents

The Glendale Police Department's review of records does not indicate a pattern of calls for service or criminal activity involving any of the retailers in Glendale. Additionally, all of the Glendale retailers have remained in compliance with the renewal requirements.

Temporary Moratorium on Firearm/Ammunition Retail Uses

The City Council may decide that the land use or licensing requirements for the retail sale of firearms and ammunition do not sufficiently address the location, concentration, or high volume of gun retailers. This raises concerns for sustainable and economically diverse retail areas in the community. Pursuant to Government Code Section 65858, the Glendale City Council may impose a moratorium for 45 days prohibiting the establishment of new retail businesses selling firearms or ammunition to allow staff time to study, analyze, and propose potential land use regulations concerning firearms retailers, including:

- Limiting or reducing the number of firearm retailers in the City by suspending the issuance of new licenses and allowing the number of retailers to decline over time through attrition;
- Amending the business license process to establish additional requirements for firearms retailers, such as successfully passing an audit by a state or federal agency as a condition of license renewal. Council may further consider implementation of local inspections regarding inventory, storage, site security, and transaction procedures; and
- Adopting a Zone Text Amendment to reduce the zones firearm retailers can operate, or require they receive Conditional Use Permits instead of operating by-right.

Staff would further refine appropriate locations for firearms retail establishments in the City and assess possible health and safety regulations for these businesses in relation to neighboring uses. Adoption of the urgency ordinance and possible consideration of a subsequent Zone Text Amendment would provide the City the ability to create comprehensive regulations for the placement of future firearms and ammunition retailers. Without a temporary moratorium and absent additional regulations that govern the location of future firearms retail uses, new firearms retail establishments may result in compatibility issues with surrounding land uses and put the City at risk of impairing its substantial interests in economically sustainable development, community health and perceptions of safety, and public image.

Conditional Use Permit

City Council may also consider requiring a Conditional Use Permit (CUP) for any future licensed retailers. In general, a CUP is a zoning tool used to ensure that a proposed use is compatible in operation with the surrounding neighborhood, such as noise, lighting, safety, etc. A noticed public hearing is required for all CUPS and conditions can be applied to individual projects that address specific contextual challenges and possible operational issues to ensure compatibility. Moreover, if there is evidence that a use is violating a condition of its CUP, enforcement tools include the revocation or modification of the CUP, following a public hearing.

Other Short-Term and Long-Term Options

The enforcement of firearms laws and the prevention of gun violence often require the cooperation of multiple governmental and community organizations. The Glendale Police Department continues to work with state and local agencies in this endeavor. In 2006, California became the first state to monitor individuals who legally purchased or acquired firearms and later became prohibited from owning or possessing them. The State of California Bureau of Firearms (BOF) maintains an Armed and Prohibited Persons System (APPS) database and coordinates with local law enforcement agencies to conduct surveillance, serve warrants, make arrests, and confiscate weapons from prohibited possessors. The Glendale Police Department has participated in joint operations with the BOF and maintains communication with the state agency regarding future collaborative efforts.

In addition to a temporary moratorium on new firearms retail establishments, Council may direct staff to pursue other short-term and long-term options to address community concerns regarding firearms.

Educational Campaign – Through its newsletter, press releases, social media platforms, and community engagement, the Glendale Police Department facilitates numerous awareness campaigns on a variety of public safety topics, from safe driving habits to crime prevention strategies. Utilizing social media and school and community outreach events, the Glendale Police Department can enhance general firearms safety education initiatives and provide information to increase awareness of existing programs that promote the safe and responsible handling of a firearm. These programs include:

- **Gun Lock Program** - Community members can request a free gun lock at the front counter of the Police Department lobby.
- **Firearms Surrender/Destruction Program** – Unwanted firearms may be surrendered for destruction.

Red Flag Procedure – In 2016, California implemented a Red-Flag law that established a process for law enforcement, family members, co-workers, employers, and teachers to seek a Gun Violence Restraining Order (GVRO) to temporarily remove access to firearms and ammunition from an individual at significant risk of self-harm or harming others. The Department currently has a policy that governs the process whereby an

officer may petition the court for a GVRO. This legal instrument is vital for the safety of victims and families of domestic violence.

School & Student Involved Threat Assessment - The Glendale Police Department maintains a strong working relationship with local schools within the city to address any potential threat of violence. Glendale Unified School District's administration and their staff work collaboratively with the police department, particularly with school resource officers to maintain a safe school climate and address behaviors or communications that may pose serious threat of violence. The Department will continue to coordinate with the school district to enhance campus safety, pursue best practices, and remain agile in assessing and responding to potential threats.

Mental Health Evaluation Team – The Glendale Police Department's Mental Health Evaluation Team (MHET) is a co-response model that pairs a police officer and a licensed clinical professional to address any incident within the city that involves individuals who are experiencing a mental health crisis. MHET is a resource to the entire organization and plays a large part in the overall threat assessment and crisis response to incidents including those that may involve firearms.

Ghost Gun Ordinance – At a national level, the U.S. Department of Justice recently launched the National Ghost Gun Enforcement Initiative to prioritize federal prosecution of individuals who use ghost guns in the commission of a crime. In 2021, the City of San Diego adopted an ordinance prohibiting the purchase or sale of parts of firearms that lack serial numbers and enabling misdemeanor prosecution for violators. The City Council may consider institution of a similar ordinance to regulate ghost guns.

Gun Buyback Program – The City of Glendale does not currently have a permanent gun buyback program; however, the police department has coordinated one-day events where residents can turn in firearms for incentives such as gift cards. Other law enforcement agencies and cities have hosted similar events. Notably, the City of Los Angeles facilitates an annual event through the Mayor's Office of Gang Reduction and Youth Development; at its March 2022 event, the city recovered 235 firearms. Council may consider implementation of an annual program in the City of Glendale; however, several questions need to be addressed relating to program funding and effectiveness. The most recent in Glendale was in June of 2023 where the city recovered 39 firearms.

STAKEHOLDERS/OUTREACH

No outreach has been conducted in preparation of this report. Should Council adopt an Urgency Ordinance, an educational campaign will be initiated for business awareness.

FISCAL IMPACT

There is no fiscal impact associated with this report.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

The proposed urgency ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3). 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.

CAMPAIGN DISCLOSURE

This item is exempt from campaign disclosure requirements.

ALTERNATIVES

Alternative 1: Introduce an interim urgency ordinance imposing a 45-day moratorium on all new firearm retailers.

Alternative 2: Note and file this report, decline to introduce an interim urgency ordinance, and provide staff further direction regarding requiring a Conditional Use Permit or otherwise.

Alternative 3: Consider any other alternative not proposed by staff.

ADMINISTRATIVE ACTION

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EXHIBITS/ATTACHMENTS

None.