



City of Pleasant Hill

MEMORANDUM

Date: August 15, 2013

To: City Manager, June Catalano
City Attorney, Janet Coleson
Police Chief John Moore
Vice Mayor Jack Weir
Councilmember Ken Carlson
Councilmember Tim Flaherty

From: Mayor Michael Harris and City Councilmember David Durant

RE: Firearms-related Ordinance

In the last decade, our nation has seen an increase in gun violence including incidents at schools and other places of public gathering not seen in previous decades. In response, we two have considered options that would further regulate the availability of weapons and ammunition within the City of Pleasant Hill. With the recent failure of the United States Senate to agree on new gun control policy, we felt that it is even more imperative that the City use the authority it has to further protect the health and safety of residents and visitors, and the overall quality of life for Pleasant Hill residents by proposing two changes to our City Municipal Code. The proposed change is to formalize the process for getting a police-issued permit to sell firearms and ammunition in the City.

Effective January 1, 2012, many of the State of California's firearms laws were renumbered. None of the prior provisions that recognized local government authority to regulate certain firearms and ammunition sales activities changed in any way that narrows a city's ability to enact appropriate regulations regarding firearms dealers and the activities of such dealers. For example, Penal Code Section 26915(f) provides that "Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents." And, Penal Code Section 26700(b) recognizes that a person licensed under Section 26700 must also satisfy the requirement of having "any regulatory or business license, or licenses, required by local government." These newer laws are consistent

with Court rulings holding that local governments are not generally excluded by state law from imposing additional licensing requirements on firearm dealers.

Pleasant Hill has considered firearm and ammunition sales regulations in the past. In 2011, the City Council's Public Safety Subcommittee (comprised of the two of us) proposed establishment of a use permit requirement for retail establishments that sell firearms and ammunition and establishment of location limitations for such establishments that were similar to those pertaining to adult businesses. The purpose of that amendment was to ensure that such establishments would not be located in close proximity to sensitive uses and to ensure that any site proposed for such an establishment would be compatible with surrounding uses. Staff prepared a proposed amendment for the Planning Commission to consider as part of a broader set of changes to the Zoning Ordinance. That proposed amendment was discussed by the City's Planning Commission at a Study Session on March 22, 2011, and at a public hearing on April 26, 2011. At that time, the Planning Commission directed Staff not to proceed with drafting an ordinance amendment concerning regulation of firearms and ammunition sales.

On November 15, 2012, the City held a public workshop regarding firearms and ammunition sales in residential areas. Early this year, we decided (as two Councilmembers working independently and not as a committee of the City Council) to further consider possible regulation. In proposing the measures we propose here, we have considered these prior efforts and the feedback received at that time.

Many other cities throughout California have mandated, or are in the process of mandating, police-issued licenses and conditional use permits for businesses selling firearms and/or ammunition. In Contra Costa, Antioch, El Cerrito, Hercules, Lafayette, Oakley, Pinole, Richmond and San Pablo all require firearm dealers to obtain a local land use and/or police permit, and Contra Costa County has an ordinance requiring such dealers to obtain a land use permit. While we recognize that firearm dealers must have a Federal Firearm License issued by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives, and have to comply with comprehensive State laws, we believe that our community's best interests are served by having direct controls in place through our City Police Department.

As a result, we are proposing a local licensing process for Firearm and Ammunition Sales -- a local licensing process that both provides for the appropriate location of firearm and ammunition sales activity and regulates such activity through the permitting process. We have drafted this licensing process with the intent to "do no harm" to the City's existing firearm dealers, all of whom our Police Department previously reported to have operated without creating problems for the City.

What we propose maintains (but renumbers) the City's existing Firearms law that protects public safety by prohibiting firearms discharging and possession of firearms by minors.

The Attachment is the draft of a licensing process through the City's Police Department. The proposed ordinance creates an application and licensing process operated by the Police Department and allows a license to be denied, suspended or revoked for any violation of the conditions of the license or the use permit. In addition, it provides for a comprehensive application and investigation, so that our Police Department has adequate information and ability to gauge the suitability of a proposed operator of a firearm and ammunition sales business in the City. Licensure would be limited to those who operate in accordance with the terms of the new Section, including limitations on location to ensure that firearm or ammunition sales would not result in the creation of a nuisance and would not interfere with the health and well-being of the City or its residents.

Finally, we have not asked City Staff to undertake any substantive work with respect to the drafts that we created. As a result, we have put this item on the agenda not for the purpose of conducting a substantive review of the proposed ordinance and proposed Municipal Code sections, but rather to seek the Council's agreement to direct the City Staff to research and evaluate the legality of the two draft code sections by September 9, 2013, and to provide the City Council with its recommendations with respect to our proposed language so that the City Council can consider the Municipal Code revisions at the City Council meeting on September 30, 2013.

ATTACHMENT

CODE SECTION OUTLINE:

OLD:

Sections:

- 9.35.010 Discharging prohibited.
 - 9.35.020 Possession by minors prohibited.
 - 9.35.030 Exceptions.
- {to be reconstituted and renumbered 9.35.180-9.35.200}

NEW: {for Police-Issued Permit}

Sections:

- 9.35.010 Findings and Purpose.
- 9.35.020 Definitions.
- 9.35.030 Police-Issued Permit Required to Engage in the Business of Firearms Sales.
- 9.35.040 Police-Issued Permit Application.
- 9.35.050 Investigation by Police – Determination timeframe.
- 9.35.060 Grounds For Police-Issued Permit Issuance and Renewal – Duration.
- 9.35.070 Denial of Police-Issued Permit.
- 9.35.080 Appeals and Calls for Review.
- 9.35.090 Renewal of Police-Issued Permit.
- 9.35.100 Revocation of Police-Issued Permit.
- 9.35.110 Conditions of Approval of Police-Issued Permit.
- 9.35.120 Firearm Ammunition.
- 9.35.130 Police-Issued Permits Not Assignable.
- 9.35.140 Compliance by Existing Firearms Sellers.
- 9.35.150 Authority to Inspect.
- 9.35.160 Violations.
- 9.35.170 Penalties.
- 9.35.180 Discharging prohibited.
- 9.35.190 Possession by minors prohibited.
- 9.35.200 Exceptions.

We would renumber Chapter 9.35.010 through 9.35.030 as 9.35.180 through 9.35.200, with corresponding technical corrections therein, and add Chapter 9.35.010 through 9.35.170, as follows:

Chapter 9.35

FIREARMS

Sections:

- 9.35.010 Findings and Purpose.
- 9.35.020 Definitions.
- 9.35.030 Police-Issued Permit Required to Engage in the Business of Firearms Sales.
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- 9.35.190 Possession by minors prohibited.
- 9.35.200 Exceptions.

9.35.010 Findings and Purpose.

A. Findings. The City Council finds that the regulation of the sale, transfer, lease, offer or advertising for sale or lease of firearms and ammunition are necessary to promote the health, welfare and safety of the people. The unpermitted sale, transfer, lease, and offer of firearms and ammunition constitute a threat to the safety of public safety officers and to the public in general.

B. Purpose. The purposes of this chapter are to: (1) license and regulate firearm and ammunition sales, leasing and transfers, by establishing, as authorized by the State of California Penal Code Section 26500 et seq. (as may be amended from time to time), a local licensing process for Firearm Sales; and (2) protect public safety by prohibiting firearms discharging and possession of firearms by minors.

9.35.020 Definitions.

As used in this chapter:

"Ammunition" means ammunition as per California Penal Code Section 16150, as said definition(s) now reads or may hereafter be amended to read, and includes handgun ammunition as defined in Penal Code Section 16650 and any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence, but does not include blanks, blank cartridges or ammunition that can be used solely in an "antique firearm" as that term is defined in the California Penal Code.

"Engage in the business" means the conduct of a business by the selling, leasing, or transferring of any firearm or ammunition; or the preparation for such conduct of business, as evidenced by the application for or securing of applicable State or Federal licenses; or the holding of oneself out as engaged in the business of selling, transferring, or leasing of any firearms; or the selling, transferring or leasing of firearms in quantity, in series or in individual transactions, or in any other manner indicative of trade.

"Firearm Sales" means the sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion, or any device defined as a firearm by the California Penal Code (including Penal Code Sections 11460 and 16520), as said definition(s) now reads or may hereafter be amended to read). For purposes of this Chapter, "Firearm Sales" shall include sales of ammunition.

"Secure facility" means a building that meets all of the following specifications:

- A. All perimeter doorways shall meet on the following:
 - (1) A windowless steel security door equipped with both a deadbolt and a doorknob lock.
 - (2) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five (5) inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine (9) gauge affixed to the exterior or interior of the door.
 - (3) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.
- B. All windows are covered with steel bars.
- C. Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

D. Any metal grates have spaces no larger than six (6) inches wide measured in any direction.

E. Any metal screens have spaces no larger than three (3) inches wide measured in any direction.

F. All steel bars shall be no further than six (6) inches apart.

9.35.030 Police-Issued Permit Required to Engage in the Business of Firearms Sales.

A. It shall be unlawful under this chapter for any business or person to engage in the business of Firearm Sales unless he or she has been issued a license as required by this Chapter.

B. A license to engage in the business of Firearm Sales shall consist of a permit issued by the Police Chief after a determination by the Police Chief that the applicant meets the standards for obtaining a permit based on the criteria contained herein. The requirement for a police-issued permit is in addition to the requirement that the applicant have obtained (1) a business license from the City, and (2) all necessary Federal and State permits and licenses. No business or person may engage in the business of Firearm Sales activity without a police-issued permit and all required Federal and State permits and licenses.

9.35.040 Police-Issued Permit Application.

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

(1) The name, age and street address, telephone number and email address of the applicant;

(2) The address of the proposed location for which the permit is required, together with the business name, if any, email address, if any, and the telephone number where firearms are to be sold;

(3) Proof of a possessory interest in the property at which the proposed business will be conducted, in the form of ownership, lease, license or other entitlement to operate at such location and the written consent of the owner of record of the real property;

(4) Proof that the property at which the proposed business will be conducted is not:

(A) within one hundred fifty (150) feet from any residence (when measured from the door of the Firearms Sales business nearest any property line of the residence to the same property line of the residence).

(B) within one thousand (1,000) feet of the exterior limits of any building premises occupied (as of the effective date of this Section) by a day care that is designated as a large family use day care or general use day care pursuant to PHMC § 18.15.030 (when measured from the closest points on the exterior property lines or area boundaries of the parcels or properties involved, except that when a permittee occupies one unit of a multi-unit structure located on a single parcel, distances shall be measured from the exterior boundaries of the unit so occupied).

(C) within one thousand (1,000) feet of the property line of any elementary school, junior high school or high school, whether public or private, in existence as of the effective date of this Section (when measured from the closest points on the exterior property lines or area boundaries of the parcels or properties involved, except that when a permittee occupies one unit of a multi-unit structure located on a single parcel, distances shall be measured from the exterior boundaries of the unit so occupied).

(D) within five hundred (500) feet of the property line of a public park, the exterior limits of another person engaged in the business of Firearms Sales, a massage parlor or an adult entertainment establishment (when measured from the closest points on the exterior property lines or area boundaries of the parcels or properties involved, except that when a permittee occupies one unit of a multi-unit structure located on a single parcel, distances shall be measured from the exterior boundaries of the unit so occupied).

(5) A floor plan of the proposed business which illustrates the applicant's intended security measures to comply with State and Federal laws and regulations and the standard conditions set forth in this Chapter.

(6) Proof of compliance with all Federal and State licensing laws and regulations relating thereto;

(7) Information relating to licenses or permits relating to other weapons sought by the applicant from other jurisdictions, including, but not limited to, date of application and whether each application resulted in issuance of a license;

(8) Information relating to every revocation of a license or permit relating to firearms, including, but not limited to, date and circumstances of the revocation;

(9) Applicant's agreement to indemnify, defend and hold harmless the City, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind, including attorney fees, arising in any manner out of the applicant's and permittee's operations, negligence or intentional or willful misconduct;

(10) Certification of satisfaction of insurance requirements under Section 9.35.100 (17).

(11) A biographical history of the applicant and each officer or director thereof, including information relating to any convictions of any of them in relation to the following:

(A) An offense which disqualifies the applicant from owning or possessing a firearm under Federal, State and local law;

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

(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, as it now reads or may hereafter be amended to read.

(12) A complete personal history of each person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City, including information relating to the criminal background and history of the applicant and each such person, including information regarding any and all arrests or convictions.

(13) For each person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City: a complete set of fingerprints, a recent passport-quality photograph, and a signed authorization for the release of pertinent records.

(14) Such other information as the Police Chief determines is reasonably necessary for implementation of this Chapter.

(15) Affirmation by the applicant as follows:

"I hereby swear and affirm that the information contained herein is true and correct to the best of my

knowledge. Further, I have read, understand, and will comply with the provisions of California Penal Code Part 6, Title 4 and regulations promulgated by the State of California relating to the sale, lease, or transfer of firearms; relating to recordkeeping, background checks, and fees relating to sale, lease, or transfer of firearms; and related to the sale, supply, delivery or giving of ammunition. I understand that any false statement or omission of material information in connection with this application shall be punished as provided by law, including civil and criminal sanctions, and may subject the applicant to a denial of license or permit application, or the suspension, limitation, or revocation of any license or permit granted.”

B. The Police Permit application shall be accompanied by a nonrefundable fee for administering this chapter established by City Council resolution.

9.35.050 Investigation by Police – Determination timeframe.

A. The Police Chief or his or her designee shall conduct a review of the application and an appropriate investigation of the applicant to determine for the protection of the public safety whether the permit may be issued. The Police Chief may require an applicant to provide information beyond information required in the application if the Police Chief deems such additional information necessary to complete the investigation, including without limitation investigation into the fitness of the applicant or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City, such as:

(1) use by such person of any controlled substance as defined by the State Health and Safety Code, as it may be amended from time to time;

(2) excessive use of alcohol to the extent that such use would impair the person’s fitness to be a dealer in firearms; or

(3) prior commitment to a mental institution, or suffering from any psychological disturbance which would impair his/her fitness to be a dealer in firearms.

B. Within ninety (90) days following receipt of a fully completed application, the Police Chief shall mail to the applicant (by overnight mail) a written notice of intent to grant or deny the application, complete with recitation of the grounds for the intent to grant or deny the application.

9.35.060 Grounds For Police-Issued Permit Issuance and Renewal – Duration.

A. The Police Chief may grant a police-issued permit to the applicant if the Police Chief finds:

(1) that the applicant complies with all applicable Federal, State and local laws and regulations relating to Firearm Sales;

(2) that the applicant has all required Federal and State permits and licenses;

(3) that none of the conditions for denial or revocation as set forth in this Chapter are present;

(4) that the property at which the proposed Firearms Sales business will be conducted only at locations that meet the criteria of Section 9.30.040(4).

B. Such permit shall be conditioned on the applicant's compliance with the City building code, fire code and zoning and planning codes. If the police-issued permit is granted, no business or person may engage in the business of Firearm Sales activity in the City until all applicable appeals periods have expired.

C. A police-issued permit expires one year after the date of issuance and is subject to annual renewal.

9.35.070 Denial of Police-Issued Permit.

A. The police chief shall deny the issuance of a police-issued permit when one or more of the following conditions exist:

(1) The applicant or any officer or director of applicant, or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City is under 21 years of age;

(2) The applicant is not licensed as required by Federal, State and local law;

(3) The applicant has failed to provide a copy of his or her valid federal firearm's license and any required state permit or license to sell firearms;

(4) The applicant, any officer or director of applicant, or any person who will be engaged in the business of Firearm Sales by or on behalf of

the applicant in the City has had a firearms permit or license previously revoked or denied for good cause within the immediately preceding two (2) years;

(5) The applicant has made a false or misleading statement of a material fact or omission of a material fact in the application for a police-issued permit. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of two (2) years;

(6) The applicant has failed to fully comply with the application requirements or the applicant, any officer or director of applicant, or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City fails or refuses to provide clear evidence of his or her identity, or any other information required by the Police Chief to complete his or her investigation. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of one (1) year;

(7) The applicant or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City has been convicted of:

(A) An offense which disqualifies the applicant or person from owning or possessing a firearm under Federal, State and local law;

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

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

(D) An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the state Health and Safety Code, as it now reads or may hereafter be amended to read;

(8) The applicant, any officer or director of applicant, or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City has been convicted of an offense relating to the manufacture, sale, possession, use or registration of a firearm or dangerous or deadly weapon;

(9) The applicant or any person who will be engaged in the business of Firearm Sales by or on behalf of the applicant in the City is prohibited from possession or sale of firearms pursuant to Part 6, Title 4 of the California Penal Code;

(10) The operation of the business as proposed would not comply with Federal, State and local law or regulation.

(11) The operation of the Firearms Sales as proposed would be at locations that are within the distance limitations set forth in Section 9.30.040(4).

9.35.080 Process for Approval; Appeals and Calls for Review.

A. Within sixty (60) days of receipt of a completed application (as deemed complete in the Police Chief's sole judgment), the Police Chief shall issue a written notice of intent to either approve or deny the application. The notice of intent shall be delivered to the applicant, posted via link on the landing page of the City's website, communicated as an attachment to the City's weekly update, and mailed to all residents and businesses within three hundred (300) feet of the intended business location.

B. Within ten (10) business days of the Police Chief's mailing of the written notice of intent to either approve or deny the application, any person may appeal by requesting a hearing before the Police Chief. The request must be made in writing, setting forth the specific grounds for appeal, and must be delivered to the Police Department by hand or by overnight mail (deposited, in the case of overnight mail, within the 10-day period). If the person appealing the notice of intent submits a timely request for an appeal, the Police Chief shall, within ten (10) business days, set a time and place for hearing (with notice to the applicant and, if applicable, appellant parties by overnight mail), such hearing to be initiated within forty-five (45) days of the date of the request for appeal and fully concluded within sixty (60) days of the date of the request for appeal.

B. The decision of the Police Chief shall be in writing within thirty (30) days of the conclusion of the hearing and shall be delivered to the applicant and, if applicable, appellant within ten (10) days thereafter by overnight mail (deposited within the 10-day period) to the physical address specified by the appellant/applicant. Notice shall be concurrently delivered to the City Manager and the City Attorney. The decision of the Police Chief is final ten (10) days after the date of the written notice of the decision, unless an appeal is made of the Police Chief's decision.

C. An applicant may appeal the Police Chief's denial of a permit to the City Manager by filing a written appeal with the City Manager within ten (10) days of the Police Chief's denial. The appeal filing shall be by hand at City Hall during regular business hours or by overnight mail (deposited, in the case of overnight mail, within the 10-day period). Such an appeal filing must set forth the specific grounds for appeal. If the applicant files a timely request for a hearing, the City Manager shall, within ten (10) business days, set a time and place for hearing (with notice to the applicant and, if applicable, appellant by overnight mail), such hearing to be initiated within thirty (30) days of the date of the request for appeal and fully concluded within forty-five (45) days of the date of the request for appeal. The decision of the City Manager concerning the application shall be in

writing and shall be rendered within thirty (30) days of the conclusion of the hearing and shall be delivered to the applicant and, if applicable, appellant within ten (10) days thereafter by overnight mail (deposited within the 10-day period) to the physical address specified by the appellant/applicant. Notice shall be concurrently delivered to the City Manager and the City Attorney. The decision of the City Manager is final ten (10) days after the date of the written notice of the decision, unless an appeal is made of the City Manager's decision

D. Any party to the appeal may appeal the City Manager's decision to the City Council by filing a written notice of appeal with the City Clerk within ten (10) business days of the date of the City Manager's written determination. The notice and hearing procedures before the City Council are the same as those in Subsection C of this Section. The Council may continue the hearing from time to time for good cause. The decision of the City Council is final.

E. Call for review. Any decision of Police Chief pursuant to this Section may be called up for review by the City Manager. Any decision of the Police Chief or City Manager may be called up for review by a member of the City Council. A call for review must be submitted in writing in the time and manner of an appeal.

9.35.090 Renewal of Police-Issued Permit.

A permit may be renewed for additional one-year periods upon the permittee's submission of an application for renewal, accompanied by a nonrefundable renewal fee established by City Council resolution. The renewal application and the renewal fee must be received by the Police Department no later than forty-five (45) days before the expiration of the current permit. If a renewal application is not timely submitted, the permit is deemed to have lapsed on the renewal date. Permit lapse is not subject to appeal. Each renewal application must contain all of the information required pursuant to Section 9.35.040. Each renewal is subject to investigation pursuant to Section 9.35.050. Grounds for renewal and denial shall be the same as those for the grant of an initial application pursuant to Section 9.35.060 and Section 9.35.070, respectively. The process for appeals of denial of renewal shall be as set forth in Section 9.35.080. If renewal is denied by the Police Chief, the prior permit shall remain in full force until all appeals provided in Section 9.35.080 have been exhausted.

9.35.100 Revocation of Police-Issued Permit.

A. In addition to the violation of any other provisions contained in this chapter, circumstances constituting grounds for denial of a police permit also constitute grounds for revocation.

B. The Police Chief shall give the applicant written notice of the Police Chief's decision to revoke the Police-Issued Permit. The notice shall be

delivered by overnight mail to the permittee's address of record with the City and shall set forth the ground or grounds for the Police Chief's decision. The notice shall also inform the applicant that he or she has ten (10) days from the date the notice was mailed within which to file a written request for a hearing with the Police Chief. The hearing and appeal process relating to revocations shall be as set forth in Section 9.35.080.

C. The Police-Issued Permit is considered immediately revoked without further notice or hearing:

(1) upon expiration of a policy of insurance required by the Chapter, subject to reinstatement upon applicant's provision of replacement insurance and compliance with the conditions of approval of the permit;

(2) upon failure of a permittee to comply with the requirements of Section 9.35.110 (19).

9.35.110 Conditions of Approval of Police-Issued Permit.

In addition to other requirements and conditions of this chapter, a police-issued permit is subject to the following conditions, the breach of any of which is sufficient cause for denial or revocation of a permit by the Police Chief:

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

(2) The police-issued permit, or a certified copy of it, shall be displayed on the premises and at gun shows where it can be easily seen;

(3) The applicant shall not permit any person under 18 years of age to enter or remain within the area of the premises where the Firearms Sales activity is the primary business performed without being accompanied by the parent or other adult legally responsible for the minor child;

(4) The permittee shall not deliver a firearm to a purchaser earlier than is allowed by applicable State and Federal law or otherwise in a manner that is prohibited under State or Federal law (including timelines and age limitations relating to the recipient of the firearm), including as described in California Penal Code Sections 26815 and 27505. The permittee must obtain and retain a copy of clear evidence of the identity and age of the purchaser, lessee or other transferee or recipient of the firearm before delivery of a firearm to a purchaser, lessee or other transferee or recipient. Evidence of identity may include, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employee identification card containing the

bearer's signature and photograph, or similar documentation which provides the permittee or seller reasonable assurance of the identity and age of the purchaser;

(5) The permittee shall not deliver a firearm to another purchaser, lessee or other transferee unless the firearm is unloaded and securely wrapped or unloaded in a locked container which is fully enclosed and securely locked by padlock or similar locking device as required by state law;

(6) The permittee shall not sell, lease or otherwise transfer a firearm to a person whom the permittee or seller knows or has reason to believe is prohibited from owning or possessing a firearm under Federal, State and local law, including if the permittee is notified by the State Department of Justice that a purchaser is in a prohibited class described in California Penal Code Sections 29800 through 29825 or State Welfare and Institutions Code Sections 8100 or 8103;

(7) The permittee shall properly and promptly process firearms transactions as required by Federal and State law, including pursuant to California Penal Code Sections 28050 through 28070;

(8) The permittee shall keep a register of sales as required by Federal and State law, including as required by California Penal Code Sections 28100 through 28180;

(9) The permittee shall post conspicuously within the licensed premises all charges and fees required by state law;

(10) The permittee shall provide notice to the purchaser with the delivery of the firearm a written warning in block letters in not less than 14-point font, as follows:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON."

(11) Permittee shall post conspicuously within the portion of the licensed premises where Firearm Sales occur, all charges and fees required by California Penal Code Section 26875, and the following warning in block letters not less than one (1) inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON."

(12) Permittee shall offer to provide the purchaser or transferee of a firearm a copy of the pamphlet described in California Penal Code Section 34205 and may add the cost of the pamphlet, if any, to the sales price of the firearm;

(13) No firearm capable of being concealed on the person shall be delivered to a purchaser or transferee, unless that person presents to the permittee or seller a current basic firearm safety certificate, unless otherwise exempted by state law;

(14) Permittee shall not sell, deliver or transfer any pistol, revolver or other firearm capable of being concealed upon the person to any person under twenty-one (21) years of age or any other firearm to any person under eighteen (18) years of age;

(15) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising their sale or other transfer, shall be displayed in any part of the premises where it can readily be seen from the outside;

(16) The permittee shall report to the Police Department the loss or theft of a firearm from the permittee's premises or place of business within twenty-four (24) hours of discovery of the loss or theft;

(17) Maintenance at all times while engaged in the business of Firearms Sales in the City of a policy of insurance in a form approved by the City and executed by an insurance company approved by the City, providing the following:

(A) the applicant and permittee is insured for all activities of the permittee against liability for damage to property and for injury to or death of any person as a result of the sale, lease or transfer or offering for sale, lease or transfer of a firearm, such policy(ies) containing an endorsement naming the City and its officers, employees and agents as additional insureds;

(B) minimum liability limits of not be less than \$1,000,000 for each occurrence (including each incident of damage to property or incident of injury or death to a person).

(C) an endorsement providing that the policy shall not be canceled until notice in writing has been given to the City Manager and Police Chief at least thirty (30) days before the time the cancellation becomes effective.

(18) The permittee shall re-apply for a permit from the City if it changes business location.

(19) The permittee shall maintain records of all employees, identifying them by name, address, date of birth and social security number. The applicant

shall notify the City within ten (10) days of any changes in employees and submit the required identification information for each newly hired employee.

(20) The permittee shall at all times comply with all of the requirements of the City's building code, the fire code, and any other technical code or regulation of the City which may govern the use, occupancy, maintenance, construction or design of buildings or structures in which the Firearms Sales business will occur.

(21) The permittee must obtain a final inspection from the City Building Official or designee demonstrating full code compliance before the applicant may commence business at the premises.

(22) Storage of inventory which is explosive or flammable at the proposed business site shall be in compliance with Federal and State law and with the City's Fire Code.

(23) All firearms kept or stored in the licensed place of business shall be stored in accordance with the then-prevailing provisions of Part 6, Title 4 of the California Penal Code, and, at least using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth 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 bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(24). Permittee must comply with all applicable provisions of California Penal Code Part 6, Title 4 and regulations promulgated by the State of California, as well as all applicable Federal laws and regulations, relating to

(A) the sale, lease, or transfer of firearms;

(B) recordkeeping, background checks, and fees relating to sale, lease, or transfer of firearms; and

(C) the sale, supply, delivery or giving of ammunition.

(25) Permittee shall install an alarm system monitored by a Police Chief-approved alarm company.

(26). Permittee shall install a surveillance camera system approved by the Police Chief.

(27) Permittee shall comply with all other requirements deemed by the Police Chief or the City Council to be necessary and proper to protect the public interest and welfare.

(28) Any applicant for a Police-Issued permit and each permittee expressly consents and grants to any investigation officials of the City the right to enter the premises for which the permit was obtained, without a warrant, from time to time during regular business hours to make reasonable inspections, to observe and enforce compliance with building, mechanical, fire, electrical, plumbing, and health regulations, as well as the provisions of this Chapter and all applicable Federal, State and local law. Such right to enter and inspect without a warrant shall be deemed a condition of approval of the Police-Issued permit.

9.35.120 Firearm Ammunition.

Firearm ammunition sales shall comply with those regulations and procedures required for a Firearm Sales Police-Issued permit, in addition to those set forth in California Penal Code Sections 30210, et seq., 30300 et seq., and 30345, et seq.

9.35.130 Police-Issued Permits Not Assignable.

A police-issued permit issued under this chapter is not assignable. The assignment or attempt to assign any Police Chief permit issued pursuant to this Chapter is unlawful; and any such assignment or attempt to assign shall render the permit null and void.

9.35.140 Compliance by Existing Firearms Sellers.

A business or person engaged in the business of Firearm Sales on the effective date of this Chapter shall, by November 1, 2014, comply with this Chapter, except that Sections 9.35.040(D) and 9.35.070(11) shall be inapplicable to a business or person engaged in the business of Firearm Sales in the City and has all valid permits and licenses required by the City, and by State and Federal law as of July 1, 2013. Any such business may continue Firearms Sales pursuant to any valid permits and licenses so long as the operator remains fully licensed by all agencies listed here and has not sold, transferred or assigned operation of the business after July 1, 2013 to any other person or entity. If any such licenses or permits are revoked, expire or lapse without timely renewal, the provisions of this Section 9.25.140 are inapplicable and a new Police-Issued

permit shall be required though a new application to which Sections 9.35.040(D) and 9.35.070(11) shall apply. A business or person engaged in the business of Firearm Sales pursuant to a home occupancy permit in effect as of July 1, 2013 shall remain exempt as a “business” as set forth in this Section 9.25.140 (except as to ammunition sales) if the home occupancy use is limited solely to those activities that were both permitted by terms of the permit issued before July 1, 2013 and legally engaged in by the business or person at the home-based location before June 1, 2013.

9.35.150 Authority to Inspect.

Any investigation officials of the City shall have the right, without warrant, to enter the premises for which the use permit was obtained from time to time to make reasonable inspections to observe compliance with this Chapter 9.35.

If the Chief Building Official, Police Chief, Code Enforcement Officer or City Manager receive complaints or reports of observed activity that cause them to reasonably believe that the applicant is not in full compliance with this Chapter, the City shall promptly investigate the facts and report the same to the Planning Commission and City Council. After the investigation, the Police Chief may commence proceedings to revoke the Police-Issued Permit. The Police Chief shall inform the City Manager and City Council in writing if a permit is revoked.

9.35.160 Violations.

It is unlawful for any person or entity to engage in the business of Firearm Sales in the City without valid Federal, State and local permits and licenses as set forth by this chapter.

9.35.170 Penalties.

Any person or entity, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of Sections 9.35.010 through 9.35.170 of this Chapter shall be guilty of an infraction or misdemeanor, as charged by the City Attorney.

9.35.180 Discharging prohibited.

No person may fire or discharge a firearm, gun, rifle, spring gun, air gun, air rifle, BB gun, pellet gun, sling shot, or other gun or device which throws or projects bullets or missiles of any kind by means of elastic force, air, or any explosive substance.

9.35.190 Possession by minors prohibited.

No person under 18 years may have in his or her possession or control a firearm, gun, rifle, spring gun, air gun, air rifle, BB gun, pellet gun, sling shot, or other gun or device which throws or projects a dangerous missile, cartridge, shell, ammunition, or device containing an explosive substance.

9.35.200 Exceptions.

PHMC § 9.35.180 and § 9.35.190 do not apply to:

A. Police, peace officers or person in the military service in the discharge of his or her duty using reasonable care;

B. A person using firearms in necessary self-defense of his or her person or property as provided by law;

C. The possession, discharge, or firing of a firearm at a shooting gallery.