

ORDINANCE NO. 2518

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY EXTENDING AN UNCODIFIED ORDINANCE PURSUANT TO GOVERNMENT CODE SECTION 65858(A) IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF NEW RETAIL USES ENGAGED IN FIREARM OR AMMUNITION SALES, TO ALLOW CITY TIME TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES FOR FUTURE FIREARM OR AMMUNITION RETAIL USES

WHEREAS, government at all levels has a substantial interest in protecting the people from those who acquire firearms or ammunition lawfully or illegally and then use them to commit crimes resulting in injury or death of their victims or who use them in the commission of other crimes such as robbery, sexual assault or homicide, and mass shootings; and

WHEREAS, the City's Municipal Code and Zoning Ordinance do not expressly address firearms and/or ammunition retail uses, e.g., whether such uses are permitted by right, conditional permitted upon issuance of a use permit, or prohibited, and by default such retail uses are permitted by right in Commercial and Mixed-Use Zoning Districts, such as Commercial General, Commercial Neighborhood, Central Business, Light Industrial Incubator, Mixed-Use Corridor, Mixed-Use Neighborhood, Mixed-Use Transitional, and Mixed Use Waterfront; and

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

WHEREAS, other California localities have adopted zoning ordinances and business regulations that govern the sale of firearms or ammunition, including zoning ordinances regulating the location of gun dealers and security and safety requirements for gun retailers. The City of Burbank, Town of Los Gatos, the City of San Carlos, and the County of Santa Cruz all adopted moratoria on an urgency basis prohibiting new commercial sales of firearms or ammunition; and

WHEREAS, on October 24, 2022, pursuant to Government Code Section 65858(a), the City Council adopted an urgency ordinance (Urgency Ordinance No. 2515) that imposed a temporary moratorium on the establishment of new retail uses selling firearms or ammunitions; and

WHEREAS, the adopted urgency ordinance took effect immediately, is in place for 45 days and will expire by operation of law unless extended by the City Council on or before December 8, 2022; and

WHEREAS, without an extension of this moratorium, a firearms and/or ammunition retailer could be established in the City in Commercial and Mixed Use Districts before the City would have had an opportunity to consider adopting planning and zoning regulations to govern such retail uses; and

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

WHEREAS, on November 28, 2022, pursuant to Government Code Section 65858, subdivisions (a) and (d), the City Council considered an extension to the urgency ordinance originally adopted on October 24, 2022, that imposed a temporary moratorium on the establishment of new retail uses selling firearms or ammunitions; and

WHEREAS, the City Council finds that the urgency ordinance extension is necessary for the City staff to study, develop, and propose for review by the Planning Commission and adoption by the City Council regulations within a reasonable time regarding the establishment of a separate land use for the retail sales of firearms and ammunition and additional land use regulations for the use in the City; and

WHEREAS, the City Council finds that given the potential deleterious effect an otherwise lawful but unregulated retail establishments selling firearms or ammunition can have on other incompatible neighboring uses, adoption of this moratorium will provide City staff sufficient time to research this issue and present a comprehensive proposal to help ensure that the establishment of a retail use engaged in the sale of firearms or ammunition within the City will not be located as to be detrimental to the public health, safety and welfare; and

WHEREAS, on November 28, 2022, the City Council issued a written report describing the measures taken by staff to alleviate conditions, which led to the adoption of Urgency Ordinance No. 2515 no less than 10-days prior to the expiration of the urgency ordinance pursuant to Government Code section 65858(d); and

WHEREAS, the City Council considered the report and the evidence presented at such meeting; and

WHEREAS, in the absence of extension of this moratorium, new retailers selling firearms and ammunition could be established in the City, particularly in Commercial and Mixed Use Districts, before the City had an opportunity study and consider the appropriate locations and planning and zoning requirements for retailers that sell firearms or ammunition in the City, and the nature and extent of health and safety regulations that

should be imposed on such establishments due to the nature of the products they sell; and

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

WHEREAS, there are over 20 retailers within close proximity to the City that sell firearms and ammunition, including in the cities of San Carlos, San Mateo, Burlingame, San Bruno, Daly City, and Pacifica to the north of Redwood City; Mountain View, Sunnyvale, and Santa Clara to the South of Redwood City; and Hayward and Fremont to the east of Redwood City, such that persons may continue to shop for and purchase firearms and ammunition in the area while the City studies planning and zoning issues relative to gun and ammunition retailers and considers adopting planning and zoning regulations; and

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

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

Section 1. Purpose and Findings.

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

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

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

D. Maintaining the status quo zoning regulations has the potential to result in new retail uses that sell firearms or ammunition without the proper analysis of any potential impacts to public health, safety, and welfare. By studying and analyzing our local land use regulations for the retail sale of firearms or ammunition during the moratorium, including the historical regulation of such regulation of uses and retailers in the state and

elsewhere, the City will be able to best tailor future regulations to the needs of our community in order to protect public health, safety, and welfare.

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

F. This temporary moratorium is not intended to regulate, and does not regulate, the rights of members of the public to keep and bear arms or ammunition in accordance and compliance with the Second Amendment to the U.S. Constitution and state and federal laws. There are numerous retailers within close proximity to the City where persons may continue to purchase or acquire firearms and ammunition.

G. This moratorium is necessary to prevent irreversible issuance of permits, business licenses, and developments that could have a detrimental effect on the health, safety and welfare of the community. Without it, the potential exists that establishment of new commercial operations engaged in the retail sale of firearms or ammunition within the City without addressing appropriate regulation could result in incompatibility of land uses and adverse impacts on residents, businesses and neighborhoods that present a current and immediate threat to the public health, safety, and welfare.

H. The City Council finds it is necessary to approve this extension to the adopted Urgency Ordinance No. 2515 pursuant to Government Code 65858(a), from October 24, 2022, through October 23, 2023. In the event the City enacts local zoning regulations prior thereto, this Urgency Ordinance will be terminated at that time.

Section 2. Imposition of Urgency Ordinance.

A. **Moratorium.** The City Council does hereby, pursuant to Government Code Section 65858(a), impose a moratorium for ten (10) months and fifteen (15) days prohibiting the establishment of new retail businesses selling firearms or ammunition in the City.

B. **Definitions.** For purposes of this Urgency Ordinance, the terms below are defined as follows:

“Firearm” shall mean any pistol, revolver, rifle, shotgun or other device, designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or other form of combustion, or any device, which is capable of being altered so as to expel a projectile in such manner.

“Ammunition” shall mean one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles and includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader,

autoloader, ammunition feeding device, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

"Firearm or ammunition sales" shall mean the retail sale of firearms or ammunition by a firearms dealer, whether it is the principal sales item or incidental to the overall sales. This use includes firearms dealers that transfer and lease any firearms or related products.

C. **Pending Applications.** As to applications for permits or business licenses for a new retail establishment engaged in firearm or ammunition sales in the City, which have been accepted as complete, processing and review of such applications may continue, but shall not be finally approved during the pendency of this Urgency Ordinance or any extensions thereof.

Section 3. Environmental Analysis. This Urgency Ordinance is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment. Further, it is exempt from any review under CEQA pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of Title 14 of the California Regulations, because the Urgency Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and only directs that a planning study be undertaken.

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

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

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

THE FOREGOING URGENCY ORDINANCE was adopted, effective immediately, at a regular meeting of the City Council of the City of Redwood City held on November 28, 2022, by the following vote:

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ORDINANCE NO. 2518

At a Joint City Council/Successor Agency Board/Public Financing
Authority Meeting thereof held on the 28th day of November 2022 by the following
votes:

AYES, and in favor of the passage and adoption of the foregoing ordinance:

AYES: Aguirre, Espinoza-Garnica, Gee, Hale, Howard, Martinez Saballos
and Reddy

NOES: None

ABSENT: None

ABSTAINED: None

RECUSED: None



Giselle Hale
Mayor of the City of Redwood City

Attest:



Pamela Aguilar, CMC
City Clerk of Redwood City

I hereby approve the foregoing Ordinance
this 30th day of November 2022.



Giselle Hale
Mayor of the City of Redwood City