

NOT YET APPROVED

Ordinance No. _____

Emergency Ordinance of the Council of the City of Palo Alto Prohibiting the
Carry of Firearms in Sensitive Places

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. The City of Palo Alto has a compelling interest in protecting and the health and safety of the public and the orderly functioning of government within its bounds.
- B. The incidence of firearm-related fatalities and injuries has reached alarming and unacceptable proportions at the national, state, and local level, as described in a report by the Santa Clara County Department of Public Health, “Cost of Gun Violence in Santa Clara County” (Aug. 12, 2022), which notes that the age-adjusted firearm death rate in Santa Clara County was 4.8 people per 100,000 in 2020, the highest rate in the past decade.
- C. According to the Gun Violence Archive (<https://www.gunviolencearchive.org>), California experienced 369 mass shootings (defined as an incident that kills or injures four or more people) between 2014 and January 2023. In Santa Clara County, mass shooting tragedies have included May 26, 2021, at the VTA railyard in San Jose (10 dead including the shooter); July 28, 2019, at the Gilroy Garlic festival (4 dead including the shooter, 17 wounded); Oct. 5, 2011, at the Lehigh Cement Plant in Cupertino (3 dead, 7 wounded); and Feb 16, 1988 at ESL Inc. in Sunnyvale (7 dead, 4 wounded).
- D. Previously, California law required applicants for permits to carry a concealed weapon to demonstrate “good cause” for the issuance of the license. The United States Supreme Court recently held, in *N.Y. State Rifle & Pistol Ass’n v. Bruen* (2022), 142 S. Ct. 2111, that such “good cause” requirements are unconstitutional under the Second and Fourteenth Amendments. This development in the law will likely result an increase in concealed carry permits issued in California.
- E. The U.S. Supreme Court has said that laws prohibiting the carrying of firearms in certain “sensitive places,” including “schools and government buildings,” and “legislative assemblies, polling places, and courthouses,” may be consistent with the Second Amendment. *N.Y. State Rifle & Pistol Ass’n v. Bruen* (2022), 142 S. Ct. 2111; *D.C. v. Heller* (2008), 554 U.S. 570.
- F. Weakening gun laws have been linked to increases in gun violence. See Center for American Progress, Fact Sheet: Weak Gun Laws Are Driving Increases in Violent Crime

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(Aug. 18, 2022) (<https://www.americanprogress.org/article/fact-sheet-weak-gun-laws-are-driving-increases-in-violent-crime/>). In light of the invalidation of California’s “good cause” requirement for concealed carry permits, the City Council declares that this emergency ordinance is necessary as an emergency measure to preserve the public peace, health and safety by reducing the potential for firearm-related injury or death in sensitive places where vulnerable people congregate and where the essential functions of government and civil society take place. Those sensitive places include schools, polling places, and government buildings.

- G. Through this Ordinance, the City Council desires to prohibit the carry of firearms in sensitive places, including by those who are licensed to carry a concealed weapon, consistent with the Supreme Court’s guidance in *N.Y. State Rifle & Pistol Ass’n v. Bruen*.

SECTION 2. City Manager Authorization

The City Manager or his or her designee(s) may promulgate guidelines and implement regulations regarding permits described in this Ordinance as long as such regulations do not conflict with this Ordinance or the Palo Alto Municipal Code.

SECTION 3. Carry of Firearms in Sensitive Places

- A. Purpose and intent. The purpose of this section is to protect sensitive places that have traditionally been subject to restrictions on carrying or possessing firearms, consistent with the Supreme Court’s guidance in *N.Y. State Rifle & Pistol Ass’n v. Bruen* (2022), 142 S. Ct. 2111; to protect health, life, and property within the city; and to preserve the order and security of the City, its inhabitants, and its visitors.
- B. Prohibition. Except as otherwise provided by federal or state law, no person shall carry a firearm in any sensitive place unless they are subject to an exemption under subsection (d) of this section. This prohibition applies to persons licensed to carry a concealed firearm.
- C. For the purposes of this section, “sensitive place” means any of the following:
- i. Any building owned by or under the control of City government for the purpose of government administration;
 - ii. Any polling place while voting is occurring;
 - iii. Any school. For the purposes of this section, “school” includes all institutions that provide preschool, elementary, secondary, post-secondary, technical, or trade or vocational education, and includes all athletic facilities, offices, cafeterias and eating establishments, health care facilities, research

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facilities, parking lots, and shared rooms and common areas of dormitories thereof. "School" does not include a private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption.

D. Exemptions. This section shall not apply to:

- i. A federal, state, or local law enforcement officer when such person is authorized to carry a concealed weapon or a loaded firearm under state law or under 18 U.S.C. Section 926B or any successor legislation;
- ii. An honorably retired officer or agent of a law enforcement agency, when authorized to carry a concealed or loaded weapon under state law or 18 U.S.C. Section 926C;
- iii. A security guard or messenger of a financial institution, a guard of a contract carrier operating an armored vehicle, a licensed private investigator, a patrol operator, an alarm company operator, or security guard, when such persons are authorized by applicable state or federal law to carry a firearm and when such persons are engaged in the exercise of their official duties;
- iv. A person bringing or transporting an unloaded firearm onto city property to exchange, transfer, or relinquish it to law enforcement, in compliance with any city operated, approved, or sponsored program to purchase, exchange, or otherwise obtain voluntary relinquishment of firearms;
- v. A person lawfully possessing an unloaded firearm in the locked trunk of, or inside a locked container in, a motor vehicle.
- vi. A hunter with a valid hunting license when going to or returning from a legal hunting expedition; provided, however, that when transiting through any area where firearms are prohibited, any firearm is safely stored in a locked container or otherwise secured using a firearm safety device as defined by California Penal Code Section 16540 or any successor legislation.

E. Penalties. Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable as set forth in Chapter 1.08 of the Palo Alto Municipal Code.

SECTION 4. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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SECTION 5. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act (“CEQA”), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 6. This ordinance shall be effective immediately upon adoption by a four-fifths vote of the City Council and shall expire on the 61st day after its adoption unless extended by the City Council.

SECTION 7. This Ordinance shall not be codified.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager