



Prohibiting Firearms in “Sensitive Places”

March 6, 2023

www.cityofpaloalto.org

California Law

- Various restrictions on carrying firearms in public, but most exempt those who have a **valid license**
- Sheriffs and chiefs of police issue licenses to carry a **concealed** firearm
- Until recently, state law required applicants for permit to carry a concealed weapon (CCW) to show:
 - **Good cause** (special need distinguishable from general public)
 - Good moral character
 - Resident of city/county
 - Completed safety training
 - Background check



New York State Rifle & Pistol Association v. Bruen (2022)

- Supreme Court invalidated New York's requirement that CCW applicants show "proper cause" to obtain concealed carry permit
 - **Renders CA's "good cause" requirement unconstitutional**
 - Likely increase in number of CCW permits
- Set a **new standard** for laws regulating firearms:
 - Does the Second Amendment's "plain text" apply?
 - If yes, the restriction is unconstitutional unless the government can show that it is "**consistent with the Nation's historical tradition of firearm regulation.**"
 - Bottom line: brand-new way of adjudicating Second Amendment cases. Focus on **history**.



“Sensitive Places”

- But *Bruen* Court acknowledged that firearms bans in certain “sensitive places” are presumptively lawful.
- ***D.C. v. Heller (2008)***: Schools and government buildings
- ***Bruen***: Legislative assemblies, polling places, courthouses
 - “And courts can use analogies to those historical regulations of ‘sensitive places’ to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible.”



Responses to *Bruen*

- New York – some sensitive place restrictions enjoined, appeal pending
- New Jersey – some sensitive place restrictions enjoined
- California
 - SB 918 – narrowly failed to garner supermajority in 2022
 - SB 2 – reintroduced without urgency provision
 - Opponents have indicated intent to challenge
- Sunnyvale
- Courts are still working through the “sensitive places” doctrine
 - No consensus, and courts are hesitant to use *Bruen*’s “analogical reasoning” to expand list of sensitive places



Recommended Approach

- Proposed ordinances cover those sensitive places that the Supreme Court has explicitly recognized: schools, government buildings, and polling places.
- If interested, Council may direct Staff to continue to monitor ongoing litigation and work in conjunction with a Council ad hoc committee to develop an expanded list of sensitive places.



Recommended Motion

- Council Member XX moved, seconded by Council Member XX to adopt emergency (4/5ths vote required) and standard ordinances recommended by staff prohibiting possession of firearms in sensitive places recognized by the Supreme Court.

If Desired:

- Council Member XX moved, seconded by Council Member XX to designate an ad hoc Council committee to work with staff to evaluate legal risks and options and make a recommendation to Council on an expanded list of sensitive places.

