

**ORDINANCE NO. 1541**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
ADDING CHAPTER 5.13 TO THE SAN CARLOS MUNICIPAL CODE TO ADOPT LICENSING  
AND SECURITY REQUIREMENTS FOR RETAIL ESTABLISHMENTS SELLING  
FIREARMS AND AMMUNITION.**

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**WHEREAS**, the City of San Carlos is an urban, densely populated city, with a population of approximately 30,000 residents living in 5.5 square miles; and

**WHEREAS**, the San Carlos City Council, like Government at all levels, has a substantial interest in protecting the people from those who acquire guns 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 coercive crimes such as robbery, sexual assault or homicide, including recent events in Las Vegas, Nevada and Sutherland Springs, Texas, as well as the many other mass homicides over the past several years; and

**WHEREAS**, retail establishments and uses that sell ammunition and firearms currently exist in the city, and City staff has received additional inquiries or applications from similar establishments; and

**WHEREAS**, on November 13, 2017, the City Council received public testimony and voted to adopt Urgency Ordinance No. 1526 pursuant to Government Code section 65858(a), imposing a 45-day moratorium on the establishment of new retail ammunition or firearms establishments. The public testimony, which included lengthy oral and written comments, expressed concerns about the absence of local zoning or health and safety regulations pertaining to retail ammunition or firearms establishments; the effect of firearms and ammunition on public safety; the security of such establishments; and whether they have been a target for criminal activity in San Carlos and elsewhere. The City Council subsequently adopted Urgency Ordinance Nos. 1528 and 1536 to extend the moratorium through May 12, 2019, as permitted by law; and

**WHEREAS**, the City held two public hearings in May 2018 and established an online town hall forum, which was open from May to July of 2018. Approximately 100 people attended one or both town halls, more than 50 people spoke, and several dozen submitted questions and comment cards. The City also received nearly 2,000 responses in the online forum; and

**WHEREAS**, the Planning Commission conducted study sessions on November 5 and November 19, 2018, to discuss possible regulations for retail establishments selling ammunition or firearms. In addition to requiring that such establishments obtain a land use permit, the Planning Commission discussed requiring a Discretionary Law Enforcement permit to be issued by the San Mateo County Sheriff that would apply to all existing and any new retail firearms or ammunition establishments; and

**WHEREAS**, the California Penal Code requires local jurisdictions to accept firearms dealer licenses and emphasizes the authority of cities and counties to regulate firearms dealers;<sup>1</sup> and

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<sup>1</sup> Cal. Penal Code § 26705.

**WHEREAS**, federal Firearm Licensees are required by federal law to comply with all state and local dealer laws as a condition for retaining their federal licenses;<sup>2</sup> and

**WHEREAS**, California is among a minority of states that impose licensing requirements on firearms dealers, but the standards are minimal; and

**WHEREAS**, the International Association of Chiefs of Police recommends that local governments impose their own licensing requirements on firearms dealers because local requirements can respond to specific community concerns and local review of licenses provides additional resources to identify and stop corrupt dealers;<sup>3</sup> and

**WHEREAS**, a 2009 study found that cities in states that comprehensively regulate retail firearms dealers and cities where these businesses undergo regular compliance inspections have significantly lower levels of gun trafficking than other cities;<sup>4</sup> and

**WHEREAS**, no federal or California law imposes security requirements on firearms dealers during business hours or requires firearms dealers or ammunition sellers to install burglar alarms or surveillance cameras. California law explicitly allows local jurisdictions to impose security requirements on firearms dealers that are stricter or at a higher standard than those imposed by state law;<sup>5</sup> and

**WHEREAS**, no federal or California law requires firearms dealers to obtain liability insurance, prohibits firearms dealers or ammunition sellers from operating in residential neighborhoods or near schools, daycare centers, parks, or other places children frequent, or requires firearms dealers or ammunition sellers to obtain a land use permit; and

**WHEREAS**, California law requires firearms dealers to report the loss or theft of any firearm within 48 hours of discovery to the local law enforcement agency where the dealer's business premises are located, but does not otherwise require dealers to provide inventory reports to local law enforcement agencies;<sup>6</sup> and

**WHEREAS**, in October 2016, the Giffords Law Center conducted an audit of 155 California cities, towns, and counties and determined that:

- 80 cities and 17 counties require firearms dealers to obtain a license or permit;
- 29 cities and four counties require firearms dealers to obtain liability insurance;
- 58 cities and seven counties expressly prohibit firearms dealers from operating as a home occupation;
- Eight cities and three counties prohibit firearms dealers from being located within a certain distance of residences or residential areas;

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<sup>2</sup> 18 U.S.C. § 923(d)(1)(F).

<sup>3</sup> International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in our Communities* p. 14 (Sept. 2007), available at: <https://www.theiacp.org/sites/default/files/all/a/ACF1875.pdf>.

<sup>4</sup> Daniel W. Webster et al., *Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking*, J. Urb. Health (July 2009).

<sup>5</sup> Cal. Penal Code § 26890(b).

<sup>6</sup> Cal. Penal Code § 26885.

- 19 cities and five counties prohibit firearms dealers from being located near sensitive areas, such as daycare facilities, schools, parks, places of worship and community/recreation centers and other places children frequent; and

**WHEREAS**, firearms dealers are a high-value target for criminals, and have often been magnets for break-ins, theft and destruction of property;<sup>7</sup> and

**WHEREAS**, on Sunday, May 22, 2016, at approximately 5:00 a.m., four unidentified suspects broke into Imbert and Smithers gun store in San Carlos. The suspects entered the store by ramming the front door area of the building using a dark colored four-door sedan. Three suspects then entered the store, wearing hoods, masks and gloves, while the fourth drove the car from the scene. The suspects stole 24 handguns and two rifles. The suspects fled the store on foot approximately two minutes after breaking in. Later in the day, a stolen vehicle was recovered that matched the description of the vehicle used in the burglary; and

**WHEREAS**, prosecutors in the San Mateo County District Attorney's office report that in March 2018, a man with a prior manslaughter conviction for shooting and killing a friend entered Imbert and Smithers gun store in San Carlos. Prosecutors further report that the man, who was out on parole after serving a seven-year prison sentence, inspected three guns before leaving the store; and

**WHEREAS**, in March 2006, a man entered Imbert and Smithers gun store in San Carlos. Police reported that the man stole a handgun, ran outside the store and shot and killed himself using the stolen gun, and using ammunition he brought with him to the store; and

**WHEREAS**, under existing law, firearms dealers are subject to potential liability if they negligently supply a firearm to a person who is likely to and does use the firearm in a manner involving unreasonable risk of physical injury – such as a sale to an intoxicated person or a minor.<sup>8</sup> Firearms dealers may also be subject to potential liability for conduct that causes harm if the conduct violates an applicable state or federal law.<sup>9</sup> Further, firearms may be subject to potential liability if patrons are injured on their premises, or for other conduct creating premises liability or property owner liability; and

**WHEREAS**, injuries and deaths from firearms, as well as from other accidents that may occur on a business' property, can devastate individuals and burden social safety nets. Liability insurance reduces these harms by providing necessary compensation to individuals who may be injured by the actions of a gun dealer; and

**WHEREAS**, to ensure that any victims who are injured by a firearms dealer's negligence or other conduct receive the compensation to which they are legally entitled, firearms dealers should obtain adequate insurance policies. The California Court of Appeal upheld a local law requiring that firearms dealers carry liability insurance in *Suter v. City of Lafayette* (Cal. Ct. App. 1997) 67 Cal.Rptr.2d 420, 435-36.

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<sup>7</sup> According to the Special Agent in charge of ATF's Sacramento office, "When people break into homes or businesses, guns are often the target. ... [O]f the commodities that we find that people that are involved in criminal activity are looking for, guns are very high on the list." Lynn Walsh, Dave Manoucheri and Mari Payton, *Stolen Guns Fuel Underground Market For Criminals in California*, NBC7 San Diego (Aug. 9, 2016), <https://www.nbcsandiego.com/investigations/Stolen-Guns-Fuel-Underground-Market-For-Criminals-in-California-389352802.html>.

<sup>8</sup> 15 U.S.C. 7903(5)(A)(ii).

<sup>9</sup> 15 U.S.C. 7903(5)(A)(iii).

**NOW, THEREFORE BE IT HEREBY ORDAINED** by the City Council of the City of San Carlos as follows:

**SECTION 1.** The San Carlos Municipal Code is hereby amended by enacting and adopting Chapter 5.13, to read as follows:

**Chapter 5.13  
Firearms and Ammunition Retail Establishments**

Sections:

- 5.13.010 Purpose of chapter.
- 5.13.020 Definitions.
- 5.13.030 Law enforcement permit—Required.
- 5.13.040 Law enforcement permit—Application.
- 5.13.050 Law enforcement permit—Application fee.
- 5.13.060 Investigation of Applicant by Sheriff.
- 5.13.070 Grounds for permit denial or revocation.
- 5.13.080 On-site security requirements.
- 5.13.090 Liability insurance.
- 5.13.100 Restricted admittance of minors or other prohibited purchasers.
- 5.13.110 Inventory reports.
- 5.13.120 Display of law enforcement permit.
- 5.13.130 Issuance of law enforcement permit—Duration.
- 5.13.140 Nonassignability.
- 5.13.150 Compliance by existing business.
- 5.13.160 Law enforcement inspections.
- 5.13.170 Posted warnings.
- 5.13.180 Violations.
- 5.13.190 Report of permit revocation to federal and state authorities.
- 5.13.200 Hearing for permit denial or revocation.

**5.13.010 Purpose of chapter.**

It is the purpose and intent of this chapter to establish a local program for the license and regulation of the sale, lease, or transfer of firearms or ammunition. The provisions of this chapter are not intended to contradict or duplicate any applicable state or federal law.

**5.13.020 Definitions.**

For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the meanings given to them in this section:

“Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, and any component thereof, but shall not include blank cartridges or ammunition that can be used solely in an “antique firearm” as that term is defined in section 921(a)(16) of Title 18 of the United States Code.

“Applicant” means any person who applies for a law enforcement permit, or the renewal of such a permit, to sell, lease or transfer firearms or ammunition.

“Sheriff” means the San Mateo County Sheriff or the Sheriff’s designated representative.

To “engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition” means to conduct a business by the selling, leasing or transferring of any firearm or ammunition, or to hold one's self out as engaged in the business of selling, leasing or otherwise transferring any firearm or ammunition, or to sell, lease or transfer firearms or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion, provided that the term “firearm” shall not include an “antique firearm” as defined in section 921(a)(16) of Title 18 of the United States Code.

“Permittee” means any person, corporation, partnership or other entity engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition, which person or entity has obtained a law enforcement permit to sell, lease or transfer firearms or ammunition.

**5.13.030 Law enforcement permit--Required.**

It is unlawful for any person, corporation, partnership or other entity to engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition within the city without a law enforcement permit, as required by this chapter, and a land use permit, as required by Chapter 18.23.

**5.13.040 Law enforcement permit--Application.**

An applicant for a permit or renewal of a permit under this chapter shall file with the Sheriff 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:

- A. The applicant's name, including any aliases or prior names, age and address;
- B. The applicant's federal firearms license and California firearms dealer numbers, if any;
- C. A photocopy of the applicant’s driver’s license, passport, or other government-issued identification card bearing a photograph of the applicant;
- D. The address of the proposed location for which the permit is sought, together with the business name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the business;
- E. The names, ages and addresses of all persons who will have access to or control of workplace firearms or ammunition, including but not limited to, the applicant’s employees, agents and/or supervisors, if any;
- F. A certificate of eligibility from the California Department of Justice under Penal Code section 26710 for the applicant and for each individual identified in subsection E demonstrating that the person is not prohibited by state or federal law from possessing firearms or ammunition;

- G. Proof of a possessory interest in the property at which the proposed business will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which, the applicant's business is to be located and conducted, the written consent of the owner of record of such real property to the applicant's proposed business;
- H. A floor plan of the proposed business which illustrates the applicant's compliance with the security provisions outlined in section 5.13.080;
- I. Proof of compliance with all applicable federal, state and local licensing and other business laws;
- J. Information relating to every license or permit to sell, lease, transfer, purchase or possess firearms or ammunition which was sought by the applicant, or by any individual identified in subsection (E), from any jurisdiction in the United States, including, but not limited to, the date of each application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;
- K. The applicant's agreement to indemnify, defend and hold harmless the City, its officers, elected officials, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the operation of the business, including attorneys' fees, arising in any manner out of the negligence or intentional or willful misconduct of (a) the applicant; (b) the applicant's officers, employees, agents and/or supervisors; or (c) if the business is a corporation, partnership or other entity, the officers, directors or partners;
- L. Certification of satisfaction of insurance requirements, for applicants applying for a permit to sell firearms; and
- M. The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States.

**5.13.050 Law enforcement permit--Application fee.**

Each application for a law enforcement permit shall be accompanied by a nonrefundable fee for administering this chapter as established by City Council resolution.

**5.13.060 Investigation of applicant by Sheriff.**

- A. The Sheriff shall conduct an investigation of the applicant and the applicant's employees, agents, and/or supervisors, if any, to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed.
- B. Prior to engaging in the business of selling, leasing, or otherwise transferring any firearm or ammunition, the applicant must first submit directly to the Sheriff:
  - 1. A complete set of the applicant's fingerprints and a signed authorization for release of records pertinent to the investigation;
  - 2. The names, ages and addresses of all individuals identified in section 5.13.040(E); and

3. A complete set of fingerprints and a signed authorization for release of records pertinent to the investigation for each individual identified in section 5.13.040(E).
- C. Prior to issuance or renewal of the permit, the Sheriff shall inspect the premises to ensure compliance with this chapter.
- D. The Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this chapter and all other applicable federal, state and local laws.

**5.13.070 Grounds for permit denial or revocation.**

- A. The Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the business would not or does not comply with federal, state or local law, or if any of the following conditions exist:
  1. The applicant, or any individual identified in section 5.13.040(E), is under 21 years of age;
  2. The applicant is not licensed as a dealer in firearms under all applicable federal, state and local laws;
  3. The applicant does not obtain an approved land use permit for the proposed location;
  4. The applicant has failed to fully comply with the application requirements, such as by refusing or failing to provide all of the requested information or refusing to agree to indemnify, defend, and hold harmless the City of San Carlos, its elected and appointed officials, officers, and employees, against claims arising from operation of the business;
  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 law enforcement permit, or in any other documents submitted to the Sheriff pursuant to this chapter. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;
  6. The applicant, or any individual identified in section 5.13.040(E), has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;
  7. The applicant, or any individual identified in section 5.13.040(E), has been convicted of:
    - a. An offense which disqualifies that person from owning or possessing a firearm under federal or California law, including, but not limited to, the offenses listed in Penal Code sections 29800-29875 and 29900-29905;
    - b. An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;

- c. An offense involving the use of force or violence upon the person of another;
  - d. An offense involving theft, fraud, dishonesty or deceit; or
  - e. An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the state Health and Safety Code;
8. The applicant is within a class of persons defined in Welfare and Institutions Code sections 8100 or 8103; or
9. The applicant is currently, or has been within the past five years, an unlawful user of or addicted to a controlled substance as defined by the Health and Safety Code.
- B. The law enforcement permit of any person or entity found to be in violation of any of the provisions of this chapter may be revoked.

**5.13.080 On-site security requirements.**

- A. If the proposed or current business location is to be used at least in part for the sale of firearms, the permitted place of business shall be a secure facility within the meaning of Penal Code section 17110.
- B. If the proposed or current business location is to be used at least in part for the sale of firearms, all heating, ventilating, air-conditioning, and service openings shall be secured with steel bars or metal grating.
- C. If the proposed or current business location is street level, concrete or hardened steel bollards, or other barriers, such as security planters or other devices with a similar structural integrity of bollards, shall be installed to protect the location's front entrance, any floor-to-ceiling windows, and any other doors, that could be breached by a vehicle.
- 1. The bollards or other barriers shall meet the following requirements:
    - a. Be no less than 4 inches in diameter and 36 inches in height from the ground;
    - b. Be spaced so as not to obstruct accessible routes or accessible means of egress in compliance with Standard 206.8 of Chapter 2 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.), and have a clear width of not less than 36 inches but no more than 60 inches; and
    - c. Be capable of stopping a 5,000 pound vehicle traveling at 30 miles per hour, in compliance with ASTM International Standard Test Method F3016.
  - 2. This subsection (C) shall not apply to elevated loading docks or to locations of a licensee's premises that are fitted with steel roll-down doors.
  - 3. Bollards installed prior to the effective date of this chapter shall be considered compliant with this section if they are composed of concrete or hardened steel, do not obstruct accessible routes or accessible means of egress in compliance with Standard 206.8 of Chapter 2 of the federal Americans with Disabilities Act of 1990



(42 U.S.C. §§ 12101 et seq.), and have a clear width of not less than 36 inches but no more than 60 inches.

- D. Any time a permittee is not open for business, every firearm shall be stored in a locked fireproof safe or vault in the licensee's business premises that meets the standards for a gun safe implemented by the Attorney General pursuant to Penal Code section 23650.
- E. Any time a permittee is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the permittee:
  - 1. Secured within a locked case so that a customer seeking access to the firearm must ask an employee of the permittee for assistance;
  - 2. Secured behind a counter where only the permittee and the permittee's employees are allowed. During the absence of the permittee or a permittee's employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or
  - 3. Secured with a hardened steel rod or cable of at least one-fourth 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. No more than five firearms may be affixed to any one rod or cable at any time.
- F. Any time a permittee is open for business, all ammunition shall be stored so that it is inaccessible to the public and secured using one of the methods mentioned in subsection (E)(1) or (2), except in the immediate presence of and under the direct supervision of an employee of the permittee.
- G. The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business & Professions Code sections 7590 *et seq.* The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a #3 extent of protection.
- H. The permitted business location shall be monitored by a video surveillance system that meets the following requirements:
  - 1. The system shall include cameras, monitors, digital video recorders and cabling, if necessary;
  - 2. The interior and exterior of the permitted business location shall be monitored. The number and location of the cameras are subject to the approval of the Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults, cabinets, cases, entryways, and parking lots. Interior cameras shall be capable of recording the faces of the

buyer and recipient of the firearm or ammunition and of the person selling the firearm or ammunition;

3. The video surveillance system shall operate continuously, without interruption, whenever the permittee is open for business. Whenever the permittee is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area;
  4. In addition, the sale or transfer of a firearm or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible;
  5. When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than 15 frames per second. The system must produce retrievable and identifiable images and video recordings on media approved by the Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises;
  6. The stored images shall be maintained on the business premises of the permittee for a period not less than three years from the date of recordation and shall be made available for inspection by federal, state or local law enforcement upon request; and
  7. The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within 14 calendar days. The permittee must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required.
- I. Business operating hours shall be limited to 8:00 a.m. to 8:00 p.m., seven days a week.
  - J. The applicant shall comply with all California laws regulating the sales of firearms and ammunition, including but not limited to Penal Code sections 26815, 26885, 32000, 32310 and 30363.
  - K. The Sheriff may impose security requirements in addition to those listed in this section prior to issuance of the law enforcement permit. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the law enforcement permit by the Sheriff.

#### **5.13.090 Liability insurance.**

- A. If the proposed or current business location is to be used for the sale of firearms, no law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City and executed by an insurance company approved by the City, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a firearm or ammunition, or any other operations of the business. The policy shall also name the City and its officials, officers, employees and agents as additional insureds. The limits of liability shall not be less than \$1,000,000 for

each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the City Attorney if deemed necessary.

- B. The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the City Manager at least 30 days prior to the time the cancellation becomes effective.
- C. Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice.

**5.13.100 Restricted admittance of minors and other prohibited purchasers.**

- A. Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow the following persons to enter into or remain on the premises unless accompanied by his or her parent or legal guardian:
  - 1. Any person under 21 years of age, if the permittee sells, keeps or displays only firearms capable of being concealed on the person, provided that this provision shall not prevent a supervisory agent or employee who has the authority to control activities on the business premises from keeping a single firearm capable of being concealed on the person on the business premises for purposes of lawful self-defense; or
  - 2. Any person under 18 years of age, if the permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person.
- B. Where firearm sales activity is the primary business performed at the business premises, the permittee and any of his or her agents, employees, or other persons acting under the permittee's authority shall be responsible for requiring clear evidence of age and identity of persons to prevent the entry of persons not permitted to enter the premises pursuant to subsection (a) by reason of age. Clear evidence of age and identity includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, or an employment identification card which contains the bearer's signature, photograph and age, or any similar documentation which provides reasonable assurance of the identity and age of the individual.
- C. Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow any person to enter into or remain on the premises who the permittee or any of his or her agents, employees, or other persons acting under the permittee's authority knows or has reason to know is prohibited from possessing or purchasing firearms pursuant to federal, state, or local law.

**5.13.110 Inventory reports.**

- A. Within the first five business days of April and October of each year, the permittee shall cause a physical inventory to be taken that includes a listing of each firearm held by the permittee by make, model and serial number, together with a listing of each firearm the permittee has sold since the last inventory period. In addition, the inventory shall include

a listing of each firearm lost or stolen that is required to be reported pursuant to Penal Code section 26885.

- B. Immediately upon completion of the inventory, the permittee shall forward a copy of the inventory to the address specified by the Sheriff, by such means as specified by the Sheriff. With each copy of the inventory, the permittee shall include an affidavit signed by an authorized agent or employee on behalf of the permittee under penalty of perjury stating that within the first five business days of that April or October, as the case may be, the signer personally confirmed the presence of the firearms reported on the inventory.
- C. The permittee shall maintain a copy of the inventory on the premises for which the law enforcement permit was issued for a period of not less than five years from the date of the inventory and shall make the copy available for inspection by federal, state or local law enforcement upon request.

**5.13.120 Display of law enforcement permit.**

The law enforcement permit, or a certified copy of it, shall be displayed in a prominent place on the business premises where it can easily be seen by those entering the premises.

**5.13.130 Issuance of law enforcement permit--Duration.**

- A. A law enforcement permit expires one year after the date of issuance.
- B. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by City Council resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this chapter. Sheriff's department personnel shall inspect the permitted business premises for compliance with this chapter prior to renewal of the permit. The renewal application and the renewal fee must be received by the Sheriff's department no later than 45 days before the expiration of the current permit.
- C. A decision regarding issuance, renewal or revocation of the law enforcement permit may be appealed in the manner provided in section 5.13.200.

**5.13.140 Nonassignability.**

A law enforcement permit issued under this chapter is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit.

**5.13.150 Compliance by existing business.**

A person engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition on the effective date of this chapter shall, within 90 days of the effective date, comply with this chapter.

**5.13.160 Law enforcement inspections.**

Permittees shall have their places of business open for inspection by federal, state and local law enforcement during all hours of operation. The Sheriff shall conduct periodic inspections of the

permittee's place of business without notice to assess the permittee's compliance with this chapter. The inspections shall be of the parts of the permittee's place of business that are used to store or sell firearms, ammunition, records, and/or documents. The Sheriff shall conduct no more than two inspections of a single place of business during any six-month period, except that the Sheriff may conduct follow-up inspections that exceed two in a six-month period if he or she has good cause to believe that a permittee is violating this chapter. Permittees shall maintain all records, documents, firearms and ammunition in a manner and place accessible for inspection by federal, state and local law enforcement.

#### **5.13.170 Posted warnings.**

- A. A permittee shall comply with Penal Code section 26835 and post all signs required by that section. A permittee shall also post conspicuously the following warnings in block letters not less than one inch in height:
  1. Within the licensed premises: "WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A DEALER RECORD OF SALE FORM AT A LICENSED FIREARMS DEALERSHIP;"
  2. Within the licensed premises: "IF YOU ARE STRUGGLING EMOTIONALLY OR THINKING OF SUICIDE, CALL 1-800-273-TALK (1-800-273-8255). FREE AND CONFIDENTIAL;" and
  3. At each entrance to the licensed premises: "THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED."
- B. If a permittee sells, keeps or displays only firearms capable of being concealed on the person, the permittee shall post conspicuously at each entrance to the premises, a sign stating: "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 21 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."
- C. If a permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person, the permittee shall post conspicuously at each entrance to the premises, a sign stating: "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 18 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."
- D. Where firearm sales activity is the primary business performed at the business premises, the permittee shall post conspicuously at each entrance to the premises, a sign stating: "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS PROHIBITED FROM POSSESSING OR PURCHASING FIREARMS PURSUANT TO FEDERAL, STATE, OR LOCAL LAW ARE EXCLUDED."

#### **5.13.180 Violations.**

- A. The Sheriff may revoke the permit of any permittee found to be in violation of any of the provisions of this chapter.

- B. In addition to any other penalty or remedy, the City Attorney may commence a civil action to seek enforcement of these provisions.

**5.13.190 Report of permit revocation to federal and state authorities.**

In addition to any other penalty or remedy, the City Attorney shall report any person or entity whose law enforcement permit is revoked pursuant to this chapter to the Bureau of Firearms of the California Department of Justice and the Bureau of Alcohol, Tobacco, Firearms & Explosives within the U.S. Department of Justice.

**5.13.200 Hearing for permit denial or revocation.**

- A. Within 10 days of the Sheriff mailing a written denial of an application or mailing a written revocation of a permit, the applicant may appeal by requesting a hearing before the Sheriff. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Sheriff shall within 30 days of receipt of the request set a time and place for the hearing.
- B. The Sheriff shall provide a written decision regarding the appeal within 14 calendar days of the hearing. An applicant may appeal the decision of the Sheriff to the City Council pursuant to Chapter 1.25 of this Code.”

**SECTION 2.** CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines. The activity will not result in direct or reasonably foreseeable indirect physical change in the environment, and is not a project as defined in Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly.

**SECTION 3.** Severability. If any section, subsection, sentence or clause of this Ordinance is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.


**SECTION 4.** Publication and Effective Date. This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced the 11<sup>th</sup> day of March, 2019. Passed and adopted as an Ordinance of the City Council of the City of San Carlos at a regular meeting thereof held on the 25<sup>th</sup> day of March, 2019, by the following vote:

<b>AYES, COUNCILMEMBERS:</b>	<u>COLLINS, MCDOWELL, PARMER-LOHAN, OLBERT</u>
<b>NOES, COUNCILMEMBERS:</b>	<u>NONE</u>
<b>ABSENT, COUNCILMEMBERS:</b>	<u>RAK</u>

  
CITY CLERK of the City of San Carlos

APPROVED:

  
MAYOR of the City of San Carlos