

[Police Code - Large Capacity Magazines]

Ordinance amending the Police Code to ban the possession of large capacity magazines for firearm ammunition; require that dealers advise persons purchasing a firearm of local firearms laws; establish a rebuttable presumption that the owner who has not reported the theft or loss of a firearm as required by law remains in possession of the firearm; require local dealers to report all ammunition sales to the Chief of Police; and prohibit the operator of a shooting range from allowing minors to enter the premises.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Police Code is hereby amended by adding Section 618, to read as follows:

SEC. 618. PROHIBITION AGAINST POSSESSION OF LARGE CAPACITY MAGAZINES

(a) Findings.

(1) In 2007, 3,231 people died from firearm-related injuries in California, and 4,491 other people were treated for non-fatal gunshot wounds.

(2) The ability of an automatic or semiautomatic firearm to fire multiple bullets without reloading is directly related to the capacity of the firearm's feeding device or "magazine." Inside the magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the firearm's action.

1 (3) Magazines with a capacity of more than 10 rounds of ammunition are generally
2 considered to be "large capacity" magazines, although the statutory definitions vary. In some cases,
3 large capacity magazines can hold up to 100 rounds of ammunition. Other types of firearms, in
4 contrast, are generally capable of holding far less ammunition; for example, revolvers typically hold
5 six rounds of ammunition in a rotating cylinder.

6 (4) Although detachable large capacity magazines are typically associated with
7 machine guns or semiautomatic assault weapons, such devices are available for any semiautomatic
8 firearm that accepts a detachable magazine, including semiautomatic handguns.

9 (5) The ability of large capacity magazines to hold numerous rounds of ammunition
10 significantly increases the lethality of the automatic and semiautomatic firearms using them.

11 (6) Large capacity magazines were used in a number of recent high-profile shootings,
12 including:

13 The shooting on the campus of Virginia Tech on April 16, 2007, where 32 people were
14 killed and many others wounded.

15 The shooting in a gym in Pittsburgh on August 4, 2009, where three people were killed
16 and nine others injured.

17 The shooting on November 5, 2009 at Fort Hood, Texas, where 13 people were killed
18 and 34 more were wounded.

19 The shooting on January 8, 2011, at Tucson, Arizona, where 6 people were killed and 13
20 people were injured, including a member of the United States House of Representatives, and

21 The shootings on December 14, 2012, at Newtown, Connecticut, where 27 people (not
22 including the shooter) were killed.

23 (7) Large capacity magazines have also been used against San Francisco police
24 officers, including a recent incident at India Basin Shoreline Park, where undercover police officers
25 were targeted with semiautomatic pistols containing 30-round magazines. Prohibiting large capacity

1 magazines serves police safety by requiring perpetrators to pause to reload their firearms more
2 frequently, giving police officers greater opportunity to apprehend them.

3 (8) Large capacity magazine bans reduce the capacity, and thus the potential lethality,
4 of any firearm that can accept a large capacity magazine.

5 (9) Large capacity magazines are not necessary for individuals to vindicate their right
6 to self-defense. Only in an extraordinarily rare circumstance would a person using a firearm in self-
7 defense ever be required to use a large capacity magazine to defend himself or herself effectively. This
8 is particularly true in an urban center like San Francisco, where law enforcement can and does
9 respond quickly to threats and incidents. Conversely, the dangers of large capacity magazines are
10 heightened in dense urban areas like San Francisco.

11 (10) In 1994, in recognition of the dangers posed by these devices, Congress adopted a
12 law prohibiting the transfer and possession of large capacity magazines as part of the federal assault
13 weapon ban. That law was filled with loopholes, however.

14 (11) The federal law was enacted with a sunset clause, providing for its expiration after
15 ten years. Despite overwhelming public support for the law, Congress allowed the federal ban to
16 expire on September 13, 2004.

17 (12) Research commissioned by the U.S. Department of Justice to analyze the effect of
18 the 1994 federal ban on assault weapons and large capacity magazines found that attacks with
19 semiautomatics including assault weapons and other semiautomatics equipped with large capacity
20 magazines result in more shots fired, more persons hit, and more wounds inflicted per victim than do
21 attacks with other firearms.

22 (13) Since January 1, 2000, California Penal Code §§ 32310 et seq., have, with limited
23 exceptions, prohibited the manufacture, importation into the state, keeping for sale, offering or
24 exposing for sale, giving, or lending of large capacity magazines. California law does not, however,
25 prohibit the possession of these magazines, and this gap in the law threatens public safety.

1 **(b) Definition. "Large capacity magazine" means any detachable ammunition feeding device**
2 **with the capacity to accept more than 10 rounds, but shall not be construed to include any of the**
3 **following:**

4 **(1) A feeding device that has been permanently altered so that it cannot accommodate**
5 **more than 10 rounds;**

6 **(2) A .22 caliber tube ammunition feeding device; or**

7 **(3) A tubular magazine that is contained in a lever-action firearm.**

8 **(c) Prohibition on Possession of Large Capacity Magazines.**

9 **(1) No person, corporation, or other entity in the City may possess a large capacity**
10 **magazine, whether assembled or disassembled.**

11 **(2) Any person who, prior to the effective date of this chapter, was legally in possession**
12 **of a large capacity magazine shall have 90 days from such effective date to do any of the following**
13 **without being subject to prosecution:**

14 **(A) Remove the large capacity magazine from the City;**

15 **(B) Surrender the large capacity magazine to the Police Department for**
16 **destruction; or**

17 **(C) Sell or transfer the large capacity magazine lawfully in accordance with**
18 **Penal Code § 12020.**

19 **(d) Exceptions. Subsection (c) shall not apply to the following:**

20 **(1) Any government officer, agent, or employee, member of the armed forces of the**
21 **United States, or peace officer, to the extent that such person is otherwise authorized to possess a large**
22 **capacity magazine in connection with his or her official duties;**

23 **(2) A person licensed pursuant to Penal Code §§ 26700 to 26915, inclusive;**

24 **(3) A gunsmith for the purposes of maintenance, repair or modification of the large**
25 **capacity magazine;**

1 (4) Any entity that operates an armored vehicle business pursuant to the laws of the
2 state, and an authorized employee of such entity, while in the course and scope of his or her
3 employment for purposes that pertain to the entity's armored vehicle business;

4 (5) Any person, corporation or other entity that manufactures the large capacity
5 magazine for a person mentioned in subsection (a) or for export pursuant to applicable federal
6 regulations;

7 (6) Any person using the large capacity magazine solely as a prop for a motion picture,
8 television, or video production, or entertainment event;

9 (7) Any holder of a special weapons permit issued pursuant to Penal Code § 33300,
10 32650, 32700, 31000, or 18900;

11 (8) Any person issued a permit pursuant to Penal Code § 32315 by the California
12 Department of Justice upon a showing of good cause for the possession, transportation, or sale of large
13 capacity magazines between a person licensed pursuant to Penal Code §§ 26700 to 26915 and an out-
14 of-state client, when those activities are in accordance with the terms and conditions of that permit;

15 (9) Any federal, state or local historical society, museum, or institutional collection
16 which is open to the public, provided that the large capacity magazine is properly housed, secured from
17 unauthorized handling, and unloaded;

18 (10) Any person who finds the large capacity magazine, if the person is not prohibited
19 from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the
20 large capacity magazine no longer than is necessary to deliver or transport the same to a law
21 enforcement agency for that agency's disposition according to law;

22 (11) A forensic laboratory or any authorized agent or employee thereof in the course
23 and scope of his or her authorized activities;

1 (12) Any person in the business of selling or transferring large capacity magazines in
2 accordance with Penal Code § 12020, who is in possession of a large capacity magazine solely for the
3 purpose of doing so; or

4 (13) Any person lawfully in possession of a firearm that the person obtained prior to
5 January 1, 2000 if no magazine that holds 10 or less rounds of ammunition is compatible with that
6 firearm and the person possesses the large capacity magazine solely for use with that firearm.

7 (e) **Penalty.** Any person violating this chapter is guilty of a misdemeanor.

8 (f) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any
9 reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
10 decision shall not affect the validity or the effectiveness of the remaining portions of this Section or any
11 part thereof. The Board of Supervisors hereby declares that it would have adopted this Section
12 notwithstanding the unconstitutionality, invalidity, or ineffectiveness of any one or more of its
13 subsections, sentences, clauses, phrases, or words.

14 (g) **No duplication of state law.** In the event that the State of California enacts legislation
15 prohibiting possession of large capacity magazines, this Section 618 shall have no force or effect to the
16 extent that it duplicates any such state law.

17
18 Section 2. The San Francisco Police Code is hereby amended by amending
19 Section 613.10, to read as follows:

20 **SEC. 613.10. LICENSE—CONDITIONS.**

21 * * * *

22 (n) At or prior to the time of delivering a firearm, licensees shall provide the person buying,
23 leasing, or receiving the loan of the firearm with a copy of a notice, to be prepared by the Chief of
24 Police, advising the reader of local firearms laws, including safe gun storage requirements and the
25 requirement to report a lost or stolen firearm. The notice may also include summary information on

1 relevant State firearms laws, including the requirement that the sale, loan or other transfer of a firearm
2 to a non-licensed person be completed through a licensed firearms dealer.

3
4 Section 3. The San Francisco Police Code is hereby amended by amending
5 Section 616, to read as follows:

6 **SEC. 616. REPORTING THE LOSS OR THEFT OF FIREARMS.**

7 (a) Any person that owns or is otherwise in possession of a firearm shall report the
8 theft or loss of such firearm to the San Francisco Police Department within 48 hours of
9 becoming aware of the theft or loss whenever

10 (1) the owner resides in San Francisco, or

11 (2) the theft or loss of the firearm occurs in San Francisco.

12 (b) The failure of an owner or person in possession of a firearm to report the theft or
13 loss of the firearms within 48 hours of when the owner or person in possession becomes
14 aware or should have become aware of the theft or loss shall be punishable in accordance
15 with Section 613.19.

16 (c) The failure of an owner or person in possession of a firearm to report the theft or loss of the
17 firearms in a timely manner shall create a rebuttable presumption that the owner or person remains in
18 possession of the firearm.

19
20 Section 4. The San Francisco Police Code is hereby amended by amending
21 Section 615, to read as follows:

22 **SEC. 615. RECORDS OF AMMUNITION SALES.**

23 (a) **Definitions.**
24
25

1 (1) "Firearm ammunition," as used in this Section, shall include any ammunition
2 for use in any pistol or revolver, or semiautomatic rifle or assault weapon, but shall not include
3 ammunition for shotguns that contains shot that is No. 4 or smaller.

4 (2) "Semiautomatic rifle," as used in this Section, shall mean any repeating rifle
5 which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and
6 chamber the next round, and which requires a separate pull of the trigger to fire each
7 cartridge.

8 (3) "Assault weapon," as used in this Section, shall mean any of the weapons
9 designated in California Penal Code Section 12276 or 12276.1.

10 (4) "Vendor," as used in this Section, shall mean any person located in the City
11 and County of San Francisco who is engaged in the sale of firearm ammunition, including any
12 retail firearms dealer.

13 (5) "Remote Vendor," as used in this Section, shall mean any person engaged
14 in the sale of firearm ammunition, including any retail firearms dealer, who is located outside
15 the City and County of San Francisco but delivers or causes to be delivered firearm
16 ammunition to an address within the City and County of San Francisco.

17 (b) No Vendor shall sell or otherwise transfer ownership of any firearm ammunition
18 without at the time of purchase recording the following information on a form to be prescribed
19 by the Chief of Police:

20 (1) the name of the Vendor (including the name of the specific individual)
21 transferring ownership to the transferee;

22 (2) the place where the transfer occurred;

23 (3) the date and time of the transfer;

24 (4) the name, address and date of birth of the transferee;

1 (5) the transferee's driver's license number, or other identification number, and
2 the state in which it was issued;

3 (6) the brand, type and amount of ammunition transferred; and

4 (7) the transferee's signature and thumbprint.

5 Within 24 hours of the commencement of the transaction, regardless of when the firearm
6 ammunition is delivered, the Vendor shall report the transaction to the Chief of Police by electronic
7 mail at _____ or by such other means specified by the Chief of Police. The report shall
8 contain the same information required above.

9 (c) ~~(1) The records required by this Section shall be maintained on the premises of the~~
10 ~~vendor for a period of not less than two years from the date of the recorded transfer. Said records shall~~
11 ~~be subject to inspection at any time during normal business hours.~~

12 ~~(2) Any vendor or remote vendor~~ Any Remote Vendor who sells or otherwise
13 transfers ownership of five hundred (500) or more rounds of any firearm ammunition to a
14 transferee in a single transaction, where the transaction occurs within the City and County of
15 San Francisco or the firearm ammunition is ordered for delivery to an address within the City
16 and County of San Francisco, shall be subject to the reporting requirement of this
17 subsection (c) (e)(2). Within 24 hours of the commencement of the transaction, regardless of
18 when the firearm ammunition is delivered, the ~~Vendor or~~ Remote Vendor shall report the
19 transaction to the Chief of Police by electronic mail at _____ or by such other means
20 specified by the Chief of Police. The report shall contain the same information required under
21 subsection (b). In determining the number of rounds sold or otherwise transferred for
22 purposes of complying with this subsection (c) (e)(2), the Remote Vendor ~~vendor or remote vendor~~
23 shall include any combination of types, brands or calibers sold or transferred to the transferee.

24 (d) No Vendor shall knowingly make a false entry in, or fail to make a required entry in,
25 ~~or fail to maintain in the required manner~~ records prepared in accordance with subsection (b)

1 ~~subsections (b) and (c)(1). No vendor shall refuse to permit a Police Department employee to examine~~
2 ~~any record prepared in accordance with this Section during any inspection conducted pursuant to this~~
3 ~~Section.~~ No Vendor or Remote Vendor shall fail to submit the report required under
4 ~~subsections (b) or (c) in a timely manner subsection (e)(2), or knowingly include false information in~~
5 such report. A Vendor must maintain the records required under subsection (b) on the premises for a
6 period of not less than two years from the date of the recorded transfer. Said records shall be subject
7 to inspection by the Police Department at any time during normal business hours.

8 (e) **Penalties.**

9 (1) **First Conviction.** Any person violating any provision of this Section shall
10 be guilty of an infraction. Upon conviction of the infraction, the violator shall be punished by a
11 fine of not less than \$50 nor more than \$100.

12 (2) **Subsequent Convictions.** In any accusatory pleading charging a violation
13 of this Section, if the defendant has been previously convicted of a violation of this Section,
14 each such previous violation and conviction shall be charged in the accusatory pleading. Any
15 person violating any provision of this Section a second time within a 90-day period shall be
16 guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more
17 than \$400 for each provision violated, or by imprisonment in the County Jail for a period of not
18 more than six months, or by both such fine and imprisonment. Any person violating any
19 provision of this Section, a third time, and each subsequent time, within a 30-day period shall
20 be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not
21 more than \$500 for each provision violated, or by imprisonment in the County Jail for a period
22 of not more than six months, or by both such fine and imprisonment.

23 (f) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section
24 be for any reason declared unconstitutional or invalid or ineffective by any court of competent
25 jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining

1 portions of this Section or any part thereof. The Board of Supervisors hereby declares that it
2 would have adopted this Section notwithstanding the unconstitutionality, invalidity, or
3 ineffectiveness of any one or more of its subsections, sentences, clauses, phrases, or words.
4

5 Section 5. The San Francisco Police Code is hereby amended by amending
6 Section 1040, to read as follows:

7 **SEC. 1040. FIREARMS REGULATED; MINORS PROHIBITED.**

8 *(a) It shall be unlawful for any person, firm, corporation, club or association,*
9 *maintaining or conducting any shooting gallery or range to use or permit to be used or*
10 *discharged therein any firearms of greater than 22 caliber, unless the cartridges used in such*
11 *firearms be loaded with reduced charges.*

12 *(b) It shall be unlawful for any person, firm, corporation, club or association, maintaining or*
13 *conducting any shooting gallery or range to permit any person under the age of 18 to enter the*
14 *premises that are the subject of the permit unless accompanied by a parent or guardian.*
15

16 Section 6. Effective Date. This ordinance shall become effective 30 days from the
17 date of passage.
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1 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to
2 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
3 punctuation, charts, diagrams, or any other constituent part of the Police Code that are
4 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
5 Board amendment deletions in accordance with the "Note" that appears under the official title
6 of the legislation.

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9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12
13 By: _____
14 THOMAS J. OWEN
15 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code – Large Capacity Magazines; Sales of Firearms and Ammunition; Reporting Lost or Stolen Firearms; Shooting Ranges]

Ordinance amending the Police Code to: 1) ban the possession of large capacity magazines for firearm ammunition; 2) require that dealers advise persons purchasing a firearm of local firearms laws; 3) establish a rebuttable presumption that the owner who has not reported the theft or loss of a firearm as required by law remains in possession of the firearm; 4) require local dealers to report all ammunition sales to the Chief of Police; and, 5) prohibit the operator of a shooting range from allowing minors to enter the premises.

Large Capacity Magazines

State law prohibits the sale, manufacture, or importation of large capacity magazines for firearms ammunition (capable of holding more than 10 rounds), with limited exceptions (most notable for law enforcement personnel and licensed firearms dealers). (Cal. Penal Code §§ 32310, 32400 *et seq.*) But State law does not prohibit the simple possession of large capacity magazines and permits individuals who owned a large capacity magazine before the law took effect on January 1, 2000, to keep those magazines. (Cal. Penal Code §§ 32310, 32420.) City law currently does not address large capacity magazines.

The proposal is an ordinance that would amend the Police Code to prohibit the possession of large capacity magazines in San Francisco, including magazines acquired prior to January 1, 2000. Under the proposal, persons already possessing a large capacity magazine would have 90 days to remove the magazine from the City, surrender it to the Police Department, or sell or transfer it lawfully in accordance with the Penal Code. The proposal exempts a number of classes of people from the prohibition, including law enforcement personnel, armored car personnel, and persons holding certain State permits. Violation of the ordinance would be punishable as a misdemeanor.

There currently is a bill pending in the State Legislature (S.B. 396) that would prohibit possession of large capacity magazines statewide, other than by law enforcement personnel, effective July 1, 2014. The proposed ordinance provides that if the State enacts legislation prohibiting possession of large capacity magazines, the local prohibition would have no force or effect to the extent it duplicated such State law.

Notification of Local Firearms Laws

City law requires businesses selling firearms and ammunition to obtain a local license, and imposes various regulations on the conduct of such businesses.

The proposal would add a new requirement to the local regulations for licensed firearms dealers. Under the proposal, when a dealer delivered a firearm to a customer, the dealer would be required to give the customer a copy of a notice, to be prepared by the Chief of Police, summarizing local firearms laws, including safe gun storage requirements and the requirement to report a lost or stolen firearm. The Chief of Police could also include in the notice summary information on relevant State firearms laws, including the requirement that the sale, loan or other transfer of a firearm to a non-licensed person be completed through a licensed firearms dealer.

Reporting the Loss or Theft of Firearms

City law requires that any person who possesses a firearm to report the theft or loss of such firearm to the Police Department within 48 hours of becoming aware of the theft or loss.

The proposal would provide that the failure to report the theft or loss as required by local law would create a rebuttable presumption that the owner still possesses the firearm.

Records of Ammunition Sales

City law requires firearms dealers to keep records of ammunition sales and to report to the Chief of Police within 24 hours of the sale of five hundred (500) or more rounds of firearm ammunition to someone in a single transaction. This requirement applies to persons selling ammunition within the City or selling ammunition for delivery to a San Francisco address.

The proposal would require dealers located in the City to report the sale of any amount of ammunition to the Chief of Police within 24 hours of the sale. Dealers located outside of the City but delivering ammunition to a San Francisco address would only be required to report the sale of five hundred (500) or more rounds in a single transaction.

Minors in Shooting Ranges

City law requires persons operating a shooting gallery or range to obtain a City permit, and regulates their operation.

The proposal would make it unlawful for a person operating a shooting range to allow someone under the age of 18 to be on the premises unless accompanied by a parent or guardian.