



Office of the City Manager

CONSENT CALENDAR
November 27, 2018

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Farimah Brown, City Attorney
Subject: Safe Storage of Firearms; Adding Berkeley Municipal Code Chapter 13.69

RECOMMENDATION

Adopt first reading of an Ordinance adding Berkeley Municipal Code Chapter 13.69 regarding safe storage of firearms.

BACKGROUND

On September 25, the City Council requested that the City Manager review a draft Safe Storage of Firearms ordinance, identify any issues associated with the item and return to Council within 90 days. Staff has done the associated analysis and is happy to return sooner than originally planned for the first reading of the proposed ordinance.

As stated in the referral submitted by Councilmembers Wengraf and Hahn on September 25, firearms kept unlocked can easily get into the wrong hands, including those of young children, teens and people struggling with mental health issues. In June 2017, CNN reported that 1,300 children are victims of unintentional child shootings in the US annually. Everytown, a gun violence prevention group, noted that on average, “someone gets shot by an American toddler a little more frequently than once a week.”

Storing firearms in a locked container or disabling them with a trigger lock has proven to reduce unintended child shootings and teen suicide rates. Researchers at the Center for Disease Control and Prevention found that youth suicide by gun rose dramatically between 2007 and 2014. For example, gun suicide by minors ten years and older increased by 60 percent in that time frame. Studies have also shown that the risk of suicide is significantly higher in homes where a firearm is kept loaded and/or unlocked—particularly amongst children and teens. According to the Giffords Law Center, to Prevent Gun Violence at least two academic studies have found that even for homes without children, the risk of suicide increases in homes where guns are kept loaded and/or unlocked.

Unintentional shootings by unlocked and/or loaded firearms are also significant. A three year old is strong enough to fire some types of handguns. Everytown for Gun Safety

published an analysis in 2014 which found that 70 percent of shooting deaths involving children could have been prevented if the firearm has been stored locked and unloaded.

Berkeley High students, Charlie Kaplanpettus, Ena June and Kayla Schalit of Berkeley High Students Demand Action for Gun Sense in America worked with Councilmember Wengraf to introduce a Safe Storage Ordinance for the City of Berkeley. They noted that millions of children in the U.S. live in homes with loaded and unlocked guns. The Journal of Urban Health released results of a National Survey in June of this year that put that number at 4.6 million children.

Ten California cities, including Oakland, San Francisco, Moraga, Sunnyvale, Santa Cruz, and Los Angeles, have safe storage laws. Safe storage laws reduce youth unintended shootings, teen suicide, and stolen guns. The proposed ordinance is modeled on San Francisco's "Storage of Firearms in Any Residence" Ordinance.

The Berkeley Safe Storage of Firearms Ordinance would mandate all gun owners to responsibly store their firearms. Firearms carried on the person of an individual in accordance with all applicable laws would be exempted while on the person.

FISCAL IMPACTS OF RECOMMENDATIONS

Minimal.

ENVIRONMENTAL SUSTAINABILITY

In compliance.

CONTACT PERSON

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Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

PROHIBITING ANY PERSON FROM KEEPING A FIREARM WITHIN ANY RESIDENCE UNLESS THE FIREARM IS STORED IN A LOCKED CONTAINER OR DISABLED WITH A TRIGGER LOCK; ADDING BERKELEY MUNICIPAL CODE CHAPTER 13.69

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 13.69 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.69

SECURING OF FIREARMS

Sections:

- 13.69.010 Prohibitions**
- 13.69.020 Definitions**
- 13.69.030 Exceptions**
- 13.69.040 Lost or Stolen Firearms**
- 13.69.050 Penalty**

13.69.010 Prohibitions

No person shall keep a firearm within any residence unless the firearm is stored in a locked container or disabled with a trigger lock.

13.69.020 Definitions

As used in this Section 13.69.020, the following terms have the following meaning:

A. "Firearm" means a Firearm as defined in California Penal Code, Section 16520, as amended from time to time.

B. "Locked container" means a locked container as defined in California Penal Code, Section 16850, as amended from time to time and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

C. "Residence" means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, in-law units, motels, hotels, Single Room Occupancy (SRO's) SRO's, time shares, and recreational and other vehicles where human habitation occurs.

D. "Trigger lock" means a trigger lock that is listed on the California Department of Justice's roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under California Penal Code, Section 23635.

13.69.030 Exceptions

This Chapter shall not apply in the following circumstances:

- A. The firearm is carried on the person of an individual in accordance with all applicable laws.
- B. The firearm is under the control of a person who is a peace officer under California Penal Code Section 830.

13.69.040 Lost or Stolen Firearms

In order to encourage reports to law enforcement agencies of lost or stolen firearms pursuant to Chapter

13.69.050 Penalty

Every violation of this Chapter shall constitute a misdemeanor under Section 1.20.010 and upon conviction

Section 2. Severability

If any provision, clause or word of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision, clause, word or application of this Section which can be given effect without the invalid provision, clause or word, and to this end the provisions of this Section are declared to be severable.

Section 3. Posting

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.