



Terry Taplin
Councilmember District 2

REVISED AGENDA MATERIAL for Supplemental Packet 2

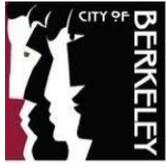
Meeting Date: August 9, 2021

Item Number: 1

Item Description: Ghost Gun Precursor Parts Ordinance

Submitted by: Councilmember Taplin

- Adding as attachments two (2) ordinance pertaining to ghost gun precursor parts, from the City & County of San Francisco and the City of San Diego
- Correcting references to state law pertaining to precursor part purchases
- Including co-sponsors



BERKELEY CITY COUNCILMEMBER
TERRY TAPLIN
DISTRICT 2

CONSENT CALENDAR
July 27, 2021
Public Safety Committee

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Bartlett (co-sponsor), Councilmember Hahn (co-sponsor), Vice Mayor Droste (co-sponsor)

Subject: Ghost Gun Precursor Parts Ordinance

RECOMMENDATION

Refer to the City Manager the development of an ordinance amending the Berkeley Municipal Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and return such an ordinance to the City Council.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Prohibiting the sale, distribution, and possession of precursor parts for Privately Manufactured Firearms (PMFs), commonly known as “ghost guns,” is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

“Ghost guns” are untraceable and unregulated firearms that are often assembled by unlicensed individuals using build-it-yourself kits. The main precursor part of an assembled firearm is an unfinished “frame” or “receiver,” which contains the firing mechanism, to which other parts are attached. Federal law regulates firearm frames and receivers, but not *unfinished* (or sometimes referred to as “80 percent”) receivers and frames. These unfinished parts, commonly known as “precursor parts,” are not considered “firearms” under the Gun Control Act, so manufacturers and importers are not required to engrave them with serial numbers, record the identities of their purchasers, or run background checks on customers. (18 U.S.C 921, 27 CFR 478.92.) Privately Manufactured Firearms (PMFs) are known as “ghost guns” because they are assembled using an unfinished frame or receiver that does not have a unique serial number allowing it to be traced to the manufacturer, dealer, and purchaser.

When an end user assembles the gun, California law mandates that they first apply for a serial number from the California Department of Justice, engrave the number on the gun within 10 days of assembly, and then provide information about the gun and the identity of its owner to the DOJ. (Penal Code 29180.) However, this requirement is trivially easy to evade. The lack of background checks makes it possible for persons whom the law recognizes as too dangerous to be permitted to purchase a firearm to still acquire them at a lower cost. The absence of a serial number on ghost guns hinders criminal investigations, endangering public safety.

City law does not regulate the possession, sale, transfer, or manufacture of unfinished firearm parts including frames and receivers. Pursuant to ~~AB-857 (2016), SB 118 (2019)~~, state law as of July 1, 2022 will require that the sale or transfer of precursor parts to be processed by a licensed vendor in a face to face transaction with a background check, though end users may still purchase parts from an online retailer that has procured its inventory through such a compliant transaction. City law also does not regulate the manufacture or assembly of firearms that lack serial numbers. ~~State law requires a person who wishes to self-manufacture or assemble a firearm to obtain a serial number from the California Department of Justice pursuant to Penal Code Section 30400 and affix it to the firearm within 10 days of manufacturing or assembling the firearm, and submit to a background check pursuant to Penal Code Section 30400.~~ Possession of an un-serialized PMF is a misdemeanor violation of California Penal Code Section 29180, but even under the new California law, the onus to provide a serial number is on the assembler of the parts rather than the vendor, making the law much easier to evade.

BACKGROUND

Currently, anyone in California with cash on hand can purchase the parts to make a PMF from the Internet. For example, the Polymer80 website¹ has “80%” kits that are completely legal for California residents to purchase online and ship to their house. As of July 2021, no background checks, waiting periods, sale records, age restrictions, or limits on numbers of purchases apply to purchases of precursor parts or kits.

The California Bureau of Firearms seized 512% more ghost guns from persons identified through the Armed Prohibited Persons System database in 2019 than in 2018. The federal Bureau of Alcohol, Tobacco, and Firearms (ATF) reported in 2019 that 30% of crime guns it recovered in California were ghost guns. In 2020, California far outpaced any other state in PMF seizures at 4,642. Overall, California accounted for 65% of all PMF seizures in the country. In January 2020, the ATF’s Los Angeles Field Division reported that over 40% of its cases involved these weapons. In February 2021, the Los Angeles City Attorney announced that law enforcement had recovered over 700 Polymer80 ghost guns, one brand of ghost gun parts/kits, in Los Angeles in 2020.

Ghost guns have been used in a wide variety of crimes in California, including homicides, robberies, school shootings, mass shootings, killings of law enforcement officers, and domestic violence. According to Berkeley’s Interim Police Chief Jennifer

¹ <https://www.polymer80.com/>

Louis, 11 of the 49 guns recovered by the Berkeley Police Department² were “ghost guns,” including a fully automatic firearm used at an April 22 shooting³ at Fairview and Harper streets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

Attachments

1. [San Francisco Board of Supervisors proposed “Ghost Guns” Ordinance \(2021\)](#)
2. [San Diego City Council’s Eliminate Non-Serialized Untraceable Firearm \(ENUF\) Ordinance](#)

CONTACT PERSON

Councilmember Terry Taplin Council District 2 510-981-7120

² Community Safety Town Hall. (2021, June 24). Vice Mayor Droste et al.

³ Raguso, E. (2021, May 17). Felon charged with stalking, gunfire in Berkeley. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/05/17/alvin-monroe-shooting-stalking-investigation-berkeley>

1 [Police Code - "Ghost Guns"]

2

3 **Ordinance amending the Police Code to prohibit any person other than a licensed**
4 **manufacturer or importer from possessing, selling, offering for sale, transferring,**
5 **purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or**
6 **receiver that has not been imprinted with a serial number, subject to certain**
7 **exceptions; and prohibiting any person from manufacturing or assembling a firearm**
8 **that has not been imprinted with a serial number, subject to certain exceptions.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

13

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

15

16 Section 1. The Police Code is hereby amended by adding Section 620, to read as
17 follows:

18 **SEC. 620. UNFINISHED FIREARM FRAMES AND RECEIVERS; MANUFACTURE OR**
19 **ASSEMBLY OF UNSERIALIZED FIREARMS.**

20 *(a) Findings.*

21 *(1) "Ghost guns" are untraceable and unregulated firearms that are often assembled by*
22 *unlicensed individuals using build-it-yourself kits.*

23 *(2) The main precursor part of an assembled firearm is an unfinished "frame" or*
24 *"receiver," which contains the firing mechanism, to which other parts are attached. Unfinished frames*

25

1 and receivers are often referred to as “80%” receivers or frames, because they are manufactured just
2 below the percentage of completion that would qualify them as firearms under federal and state law.

3 (3) Sellers often package together an unfinished frame or receiver with all the other
4 parts needed to assemble a ghost gun in a build-it-yourself “ghost gun kit,” with the purpose of
5 avoiding firearms regulations. Assembling the parts into a lethal ghost gun can readily be done by
6 untrained amateurs using common household tools.

7 (4) Ghost gun precursor parts and kits are typically sold by unregulated sellers online,
8 in retail stores or at gun shows, without the protections that California and federal law apply to the
9 manufacture, sale, and transfer of firearms. As of May 2021, no background checks, waiting periods,
10 sale records, age restrictions, or limits on numbers of purchases apply to purchases of precursor parts
11 or kits.

12 (5) Any person with cash in hand – whether a domestic abuser, teenager, gun trafficker,
13 or a person contemplating suicide – can purchase unfinished frames or receivers, from which many can
14 easily build a working firearm. Unfinished frames or receivers, and ghost gun kits, cost far less than
15 firearms produced by licensed manufacturers.

16 (6) In addition, unlike guns produced by licensed firearms manufacturers, a gun
17 assembled using an unfinished frame or receiver does not have a unique serial number allowing it to be
18 traced to the manufacturer, dealer, and purchaser – hence the term “ghost gun.” Although California
19 law requires individuals who assemble firearms to pass a background check, obtain a serial number for
20 the gun, and affix the serial number to the gun within 10 days of assembly, it is all too easy for anyone,
21 including individuals prohibited from purchasing a firearm, to evade these requirements. The absence
22 of a background check makes it possible for persons whom the law recognizes as too dangerous to be
23 permitted to purchase a firearm, to nonetheless be able to do so. And the absence of a serial number
24 on ghost guns cripples the efforts of law enforcement to identify individuals who have used such guns in
25 the commission of a crime, thereby further endangering public safety.

1 (7) Sales of ghost gun precursor parts and kits present serious safety risks, not only for
2 possible victims of gun violence, but also for those who purchase or otherwise possess ghost guns. The
3 precursor parts and kits are often able to skirt the critical consumer safety requirements that apply to
4 new models of handguns sold by licensed dealers and manufacturers in California. California's
5 Unsafe Handgun Act is designed to ensure that firearms sold in the state function properly and are
6 equipped with lifesaving features that protect lawful users. However, ghost guns assembled from
7 precursor parts and kits typically fail to include essential safety features mandated by the Act. Further,
8 a firearm assembled by an untrained amateur also may be of poor quality and unsafe. And purchasers
9 of precursor parts and build kits typically avoid completing the firearms safety test that California
10 requires of firearms purchasers.

11 (8) The increased availability of ghost guns poses enormous risks to public safety in San
12 Francisco and undermines law enforcement efforts to prevent gun violence. Not surprisingly, the
13 number of ghost guns recovered by law enforcement in San Francisco, as well as in other cities in
14 California, is rising rapidly. In San Francisco, the number of ghost guns seized by local law
15 enforcement jumped 2,733% from 2016 to 2020. This rapid increase continued in 2021, and in the first
16 two months of 2021, ghost guns seized by law enforcement in San Francisco increased by 350%
17 compared to 2019. Further, ghost guns have substantially increased as a proportion of all guns seized
18 in San Francisco. In 2016, ghost guns were less than 1% of all firearms seized in San Francisco, but
19 by 2020, ghost guns represented over 16% of all firearms seized in San Francisco.

20 (9) San Francisco's experience with ghost guns has paralleled the experience of other
21 cities in California. The California Bureau of Firearms seized 512% more ghost guns from persons
22 identified through the Armed Prohibited Persons System database in 2019 than in 2018. The federal
23 Bureau of Alcohol, Tobacco, and Firearms (ATF) reported in 2019 that 30% of crime guns it recovered
24 in California were ghost guns. In January 2020, the ATF's Los Angeles Field Division reported that
25 over 40% of its cases involved these weapons. In February 2021, the Los Angeles City Attorney

1 announced that law enforcement had recovered over 700 Polymer80 ghost guns, one brand of ghost
2 gun parts/kits, in Los Angeles in 2020. Ghost guns have been used in a wide variety of crimes in
3 California, including homicides, robberies, school shootings, mass shootings, killings of law
4 enforcement officers, and domestic violence.

5 (10) San Francisco has a compelling interest in protecting its residents from gun
6 violence. It has among the strongest – if not the strongest – firearm safety laws in California. For
7 example, in 2015, San Francisco enacted an ordinance requiring firearms dealers to install video
8 surveillance systems to record all sales and transfers of guns and ammunition, and to report
9 information about ammunition sales to the Police Department. See Ordinance 190-15. San
10 Francisco’s strong gun violence prevention laws are being undermined by the increase in unregulated
11 sales of ghost gun kits and precursor parts.

12 (11) As of May 2021, no licensed gun dealers operated in San Francisco. The last
13 licensed gun dealer closed in 2015. The absence of licensed gun dealers in San Francisco increases
14 the likelihood that residents of San Francisco will seek out ghost gun precursor parts and kits.

15 (b) Definitions.

16 For purposes of this Section 620, the following definitions shall apply:

17 “Antique Firearm” has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).

18 “Assemble” means to fit together component parts.

19 “Federal Firearms Importer or Manufacturer” means a person licensed to import or
20 manufacture firearms pursuant to 18 U.S.C. Chapter 44.

21 “Manufacture” means fabricate, make, form, produce, or construct by manual labor or
22 machinery.

23 “Precursor Parts Vendor” means a person or entity holding a precursor parts vendor license
24 issued under California Penal Code Sections 30400 et seq.

1 “Unfinished Frame or Receiver” means a piece of any material that does not constitute the
2 frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the
3 purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be
4 made into a functional frame or receiver through milling, drilling, or other means.

5 (c) It shall be unlawful for any person to possess, sell, offer to sell, transfer, purchase,
6 transport, receive, or Manufacture an Unfinished Frame or Receiver, unless the person is a Federal
7 Firearms Importer or Manufacturer, or the Unfinished Frame or Receiver is required by federal law to
8 be imprinted with a serial number issued by a Federal Firearms Importer or Manufacturer and the
9 Unfinished Frame or Receiver has been imprinted with the serial number. The foregoing prohibition
10 shall not apply to or affect any of the following:

11 (1) An employee or sworn peace officer of a local, state, or federal law enforcement
12 agency, if the individual is acting in connection with official duties; or

13 (2) A person who is on the centralized list of exempted federal firearms licensees
14 maintained by the California Department of Justice pursuant to California Penal Code Sections 28450,
15 et seq.; or

16 (3) A person whose licensed premises are outside the City and who is licensed as a
17 dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
18 United States Code and the regulations issued under that Chapter; or

19 (4) A common carrier licensed under state law, or a motor carrier, air carrier, or
20 carrier affiliated with an air carrier through common controlling interest that is subject to United
21 States Code Title 49, or an authorized agent of any such carrier, when acting in the course and scope
22 of duties incident to the receipt, processing, transportation, or delivery of property; or

23 (5) Possession, purchase, transport, or receipt of an Unfinished Frame or Receiver by a
24 Precursor Parts Vendor; or

1 (6) Sale or transfer of an Unfinished Frame or Receiver processed through a Precursor
2 Parts Vendor pursuant to Penal Code Section 30400, et seq., provided that the Precursor Parts Vendor
3 ensures that prior to the purchaser or transferee taking possession of the Unfinished Frame or
4 Receiver, the purchaser or transferee obtains a serial number from the California Department of
5 Justice pursuant to California Penal Code Sections 29180 and 29182, the serial number is permanently
6 affixed to the Unfinished Frame or Receiver, and the California Department of Justice is provided
7 sufficient information to identify the purchaser or transferee pursuant to those Penal Code sections ; or

8 (7) Possession of an Unfinished Frame or Receiver by the person who obtained it
9 through a transaction processed by a Precursor Parts Vendor in compliance with subsection (c)(6) of
10 this Section 620.

11 (d) It shall be unlawful for any person to Manufacture, cause to be Manufactured, Assemble, or
12 cause to be Assembled, a firearm that has not been imprinted with a serial number issued by a Federal
13 Firearms Importer or Manufacturer in accordance with federal law. The foregoing prohibition shall
14 not apply to or affect any of the following:

15 (1) A firearm that has been rendered permanently inoperable; or

16 (2) An Antique Firearm; or

17 (3) A firearm that has been determined to be a collector's item pursuant to 26 U.S.C.
18 Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44; or

19 (4) An employee or sworn peace officer of a local, state, or federal law enforcement
20 agency, if the individual is acting in connection with official duties; or

21 (5) The Manufacture or Assembly of a firearm with a frame or receiver processed
22 through a Precursor Parts Vendor pursuant to Penal Code Sections 30400, et seq., provided that the
23 Precursor Parts Vendor ensures that prior to the purchaser or transferee taking possession of the
24 Unfinished Frame or Receiver, the purchaser or transferee obtains a serial number from the California
25 Department of Justice pursuant to California Penal Code Section Sections 29180 and 29182, the serial

1 number is permanently affixed to the Unfinished Frame or Receiver, and the Department of Justice is
2 provided sufficient information to identify the purchaser or transferee pursuant to those Penal Code
3 sections.

4 (e) Penalty. Violation of any of the provisions of this Section 620 is a misdemeanor and upon
5 conviction the violator may be punished by a fine not to exceed \$1,000 or by imprisonment in the
6 county jail not to exceed six months, or by both.

7 (f) Preemption. Nothing in this Section 620 shall be interpreted or applied so as to create any
8 requirement, power, or duty in conflict with any federal or state law.

9 (g) Promotion of General Welfare. In enacting and implementing this Section 620, the City is
10 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on
11 its officers and employees, an obligation for breach of which it is liable in money damages to any
12 person who claims that such breach proximately caused injury.

13 (h) Severability. If any subsection, sentence, clause, phrase, or word of this Section 620, or any
14 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
15 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
16 portions or applications of the Section. The Board of Supervisors hereby declares that it would have
17 passed this Section and each and every subsection, sentence, clause, phrase, and word not declared
18 invalid or unconstitutional without regard to whether any other portion of this ordinance or application
19 thereof would be subsequently declared invalid or unconstitutional.

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 3,
DIVISION 00, OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING SECTION 53.18, RELATING TO NON-SERIALIZED,
UNFINISHED FIREARM FRAMES OR RECEIVERS AND
NON-SERIALIZED FIREARMS.

WHEREAS, San Diego is experiencing a rise in detection and seizure of firearms lacking serial numbers or other identifying markings, commonly known as “ghost guns”; and

WHEREAS, a ghost gun is a firearm constructed using unfinished firearm parts, including unfinished frames or receivers, which house the operating parts of the firing mechanism; and

WHEREAS, ghost gun kits contain all necessary parts to complete assembly and turn an unfinished frame or receiver into a functional firearm; and

WHEREAS, numerous online videos illustrate how to easily assemble a ghost gun; and

WHEREAS, a firearm assembled from a ghost gun kit is non-serialized and untraceable through law enforcement databases; and

WHEREAS, ghost gun kits are widely available for purchase, circumventing the background check process, allowing individuals who are prohibited from possessing or purchasing firearms due to criminal history, restraining orders, or mental illness to easily obtain them; and

WHEREAS, the majority of ghost guns recovered by the San Diego Police Department (SDPD) are seized from individuals prohibited from legally possessing or purchasing firearms; and

WHEREAS, evidence suggests that ghost gun kits and parts are often sold through the internet; and

WHEREAS, the increased availability of ghost guns threatens the public safety and welfare of the residents of San Diego; and

WHEREAS, SDPD recovered 211 ghost guns in calendar year 2020, and has recovered 233 ghost guns through mid-July 2021, an increase from 77 ghost guns in 2019, and 58 in the second half of 2018; and

WHEREAS, ghost guns have been linked to multiple shootings in San Diego between 2018 and 2021; and

WHEREAS, the increase of ghost guns in San Diego is consistent with national trends. Between 2016 and 2020, law enforcement agencies across the country reported approximately 23,906 ghost guns to the Bureau of Alcohol, Tobacco, Firearms, and Explosives as having been recovered from crime scenes, including 325 homicides or attempted homicides; and

WHEREAS, federal law does not fully regulate ghost gun kits or parts; and

WHEREAS, the Congress of the United States has not, expressly or by implication, preempted additional regulation of firearms by state and local authorities; and

WHEREAS, state law regulates some, but not all, aspects of ghost gun kits or parts; and

WHEREAS, state law provisions regulating the sale and purchase of firearm precursor parts do not become effective until July 1, 2022; and

WHEREAS, the Legislature of the State of California has not, expressly or by implication, preempted the entire field of firearms regulation not in conflict with state law; and

WHEREAS, the Council of the City of San Diego (Council) intends this Ordinance to be applied and interpreted consistent with federal and state law; and

WHEREAS, this Ordinance may be enforced by any remedy available in Chapter 1 of the San Diego Municipal Code; and

WHEREAS, the Council finds and declares this Ordinance necessary in order to eliminate non-serialized, untraceable firearms, thereby promoting and protecting the public health, safety, and general welfare of the residents of the City of San Diego; and

WHEREAS, the Council finds and declares this Ordinance will promote effective law enforcement by providing reasonable measures to address the dangers posed to the community by ghost guns; and

WHEREAS, the Council further finds it is within its police powers to implement and enforce the provisions of this Ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 3, Division 00 of the San Diego Municipal Code is amended by adding section 53.18, to read as follows:

§53.18 Prohibition of Possession or Sale of Non-Serialized, Unfinished Firearm Frames or Receivers and Non-Serialized Firearms

- (a) Purpose and Intent. It is the purpose and intent of this section that possession, purchase, sale, receipt, and transportation of non-serialized, *unfinished frames* and *unfinished receivers*, and *non-serialized firearms* within the City of San Diego be prohibited for the protection, health, and welfare of the public, to further effective law enforcement, and to provide the City with reasonable measures to address the dangers to the community posed by *non-serialized firearms*, commonly known as “ghost

guns.” This section is intended to be applied and interpreted consistent with state and federal law.

- (b) Definitions. For the purposes of this section, defined terms appear in italics. The following definitions apply in this section:
- (1) *Federal Firearms Importer* means a licensed *firearm* importer as defined in 18 U.S.C. § 921(a)(9) (2019), as may be amended.
 - (2) *Federal Firearms Manufacturer* means a licensed *firearm* manufacturer as defined in 18 U.S.C. § 921(a)(10) (2019), as may be amended.
 - (3) *Firearm* has the same meaning as in California Penal Code section 16520(a), as may be amended. As used in this section, *firearm* shall include a *handgun*, *rifle*, or *shotgun*.
 - (4) *Frame* means the primary structural component of a *firearm* to which the fire control components are attached.
 - (5) *Handgun* has the same meaning as in California Penal Code section 16640, as may be amended.
 - (6) *Non-serialized firearm* means a *firearm* that is not either imprinted with a serial number issued to that *firearm* by a *Federal Firearms Importer* or *Federal Firearms Manufacturer* in compliance with federal law or engraved or permanently affixed with a serial number provided by the California Department of Justice for that *firearm*.

- (7) *Person* has the same meaning as in San Diego Municipal Code section 11.0210.
 - (8) *Receiver* means the primary structural component of a *firearm* to which the fire control components are attached.
 - (9) *Rifle* has the same meaning as in California Penal Code section 17090, as may be amended.
 - (10) *Shotgun* has the same meaning as in California Penal Code section 17190, as may be amended.
 - (11) *Unfinished frame* means a piece of any material that does not constitute the completed *frame* of a *firearm*, but that has been shaped or formed in any way for the purpose of becoming the *frame* of a *firearm*, and which may be made into a functional *frame* of a *firearm* through milling, drilling, or other means.
 - (12) *Unfinished receiver* means a piece of any material that does not constitute the completed *receiver* of a *firearm*, but that has been shaped or formed in any way for the purpose of becoming the *receiver* of a *firearm*, and which may be made into a functional *receiver* of a *firearm* through milling, drilling, or other means.
- (c) Prohibition. It is unlawful for any *person* to:
- (1) Possess, purchase, transport, or receive an *unfinished frame* or *unfinished receiver*, unless the *unfinished frame* or *unfinished receiver* is imprinted with a serial number issued to that *unfinished frame* or *unfinished receiver* by a *Federal Firearms Importer* or

Federal Firearms Manufacturer, or engraved or permanently affixed with a serial number provided by the California Department of Justice for that *unfinished frame* or *unfinished receiver*.

(A) This subsection shall not apply to a *Federal Firearms Importer* or *Federal Firearms Manufacturer*.

(B) This subsection shall not apply to an employee or sworn peace officer of a local, state, or federal law enforcement agency if the employee or sworn peace officer is acting within the scope of official duties.

(C) This subsection shall not apply to a common carrier licensed or regulated under state or federal law or an authorized agent of a common carrier when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.

(2) Sell, offer to sell, transfer, or offer to transfer an *unfinished frame* or *unfinished receiver*, unless the *unfinished frame* or *unfinished receiver* is imprinted with a serial number issued to that *unfinished frame* or *unfinished receiver* by a *Federal Firearms Importer* or *Federal Firearms Manufacturer*, or engraved or permanently affixed with a serial number provided by the California Department of Justice for that *unfinished frame* or *unfinished receiver*.

- (3) Possess, purchase, transport, or receive *a non-serialized firearm*.
- (A) This subsection shall not apply to an employee or sworn peace officer of a local, state, or federal law enforcement agency if the employee or sworn peace officer is acting within the scope of official duties.
- (B) This subsection shall not apply to a common carrier licensed or regulated under state or federal law or an authorized agent of a common carrier when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.
- (C) This subsection shall not apply to a *non-serialized firearm* if any of the following conditions apply:
- (i) The *non-serialized firearm* has been rendered permanently inoperable.
- (ii) The *non-serialized firearm* is an antique firearm as defined in California Penal Code section 16170, as may be amended.
- (iii) The *non-serialized firearm* was manufactured or assembled prior to 1968.
- (iv) The *non-serialized firearm* has been determined to be a collector's item pursuant to 26 U.S.C. Ch. 53, including § 5845 (2019), as may be amended, or a curio or relic pursuant to 18 U.S.C. Ch. 44,

including § 921(a) (2019), as may be amended, and
27 C. F. R. § 478.11 (2019), as may be amended.

- (v) The *non-serialized firearm* has been entered into the centralized registry set forth in California Penal Code section 11106, as may be amended, prior to July 1, 2018, as being owned by a specific individual or entity if that *firearm* has assigned to it a distinguishing number or mark of identification.
- (D) It shall be an affirmative defense to a violation of this subsection that the *person* is in compliance with California Penal Code section 29180, as may be amended.
- (4) Sell, offer to sell, transfer, or offer to transfer a *non-serialized firearm*. This subsection shall not apply to a *non-serialized firearm* if any of the following conditions apply:
 - (A) The *non-serialized firearm* has been rendered permanently inoperable.
 - (B) The *non-serialized firearm* is an antique firearm as defined in California Penal Code section 16170, as may be amended.
 - (C) The *non-serialized firearm* was manufactured or assembled prior to 1968.
 - (D) The *non-serialized firearm* has been determined to be a collector's item pursuant to 26 U.S.C. Ch. 53, including §

5845 (2019), as may be amended, or a curio or relic pursuant to 18 U.S.C. Ch. 44, including § 921(a) (2019), as may be amended, and 27 C. F. R. § 478.11 (2019), as may be amended.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Michelle A. Garland
Deputy City Attorney

MAG:hm
July 26, 2021
Or.Dept:CD5
Doc. No.: 2710879

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor