

7/9/07

FILE NO. 070682

ORDINANCE NO. 194-07

1 [Prohibition of possession or sale of firearms or ammunition on county property.]

2
3 **Ordinance amending the San Francisco Police Code by adding Section 617 to prohibit**
4 **the possession or sale of firearms or ammunition on property controlled by the City**
5 **and County of San Francisco.**

6 Note: Additions are single-underline italics Times New Roman;
7 deletions are strikethrough italics Times New Roman.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough-normal~~.

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

10 Section 1. The San Francisco Police Code is hereby amended by adding Section 617,
11 to read as follows:

12 **SEC. 617. Prohibition Against Possession or Sale of Firearms or Ammunition on Property**
13 **Controlled by the City and County of San Francisco.**

14 **A. Legislative Findings.**

15 (1) The national and statewide statistical information available from numerous sources
16 overwhelmingly demonstrates that the incidence of gunshot fatalities and injuries has reached alarming
17 and thus, unacceptable proportions; and

18 (2) Government at all levels has a substantial interest in protecting the people from those who
19 acquire guns illegally and use them to commit crimes resulting in injury or death of their victims; and

20 (3) Recent events throughout the City and County have generated additional fears of random
21 usage of guns to commit violence on unsuspecting residents, children and adults alike; and

22 (4) The Board of Supervisors finds that crimes and injuries committed with the use of a firearm
23 are prevalent in San Francisco, with local statistics showing an increase in homicides by use of a gun
24 increasing from 39 gun homicides out of 63 total homicides in 2001, which is a 63 % increase, to 68
25 gun homicides out of 85 total homicides in 2006, which is an 80 % increase. Local statistics also show

MAYOR, DISTRICT ATTORNEY, SUPERVISOR MAXWELL, *Mir Karimi*
BOARD OF SUPERVISORS

1 that San Francisco Police Department has seized 1,158 guns in 2005, and 1,104 guns in 2006. In
2 2007, there have already been 25 gun homicides.

3 (5) In the City and County of San Francisco, the number of nonfatal injuries from guns has
4 steadily increased. While, in 2001, 81 patients were admitted to SF General Trauma Center for serious
5 injuries resulting from gun shots, the number of patients admitted for serious injuries rose to 228 by
6 2006. Similarly, the total number of shootings that resulted in nonfatal injuries documented by SFPD
7 was 269 in 2005, 303 in 2006, and in 2007 this number has already reached 105 by May 10; and

8 (6) Gun crimes in and around schools and on buses carrying students to and from school have
9 become increasingly common; and

10 (7) In 2003 and 2004, 52% of the City's gun violence victims were under the age of 25.

11 (8) Homicides committed with handguns are the leading cause of firearms related injuries and
12 death in California; and

13 (9) The widespread availability of illegally obtained firearms has resulted in a significant rise
14 in the number of shooting incidents across the country; and

15 (10) The Board of Supervisors has authority over the management and control of City and
16 County property, and it may regulate, by ordinance, the manner in which the property of the City and
17 County is accessed and used by members of the public; and

18 (11) Prohibiting the possession or sale of firearms and/or ammunition on City and County
19 property will promote the public health and safety by contributing to the reduction in the presence of
20 firearms and the potential for gunshot fatalities and injuries in the county. It will increase the
21 confidence of members of the public that they are not at risk of injury from firearms when they seek to
22 use the property and facilities of the City and County. In particular, this Board of Supervisors finds
23 that an enormous number of the general public utilizes the parks, playgrounds and squares of San
24 Francisco. This Board finds that prohibiting the possession or sale of firearms and ammunition on City

1 and County property will help to ensure the safety of the general public and specifically children who
2 are among the most vulnerable in our society; and

3 (12) The California Supreme Court has ruled that state law does not preempt local laws
4 banning the possession and sale of firearms and ammunition on their property. In Nordyke v. King
5 (2002) 27 Cal.4th 875, the Supreme Court upheld an Alameda County ordinance banning the
6 possession of firearms and ammunition on county owned property and in Great Western v. County of
7 Los Angeles (2002) 27 Cal.4th 853, the Supreme Court upheld a Los Angeles county ordinance
8 prohibiting all sales of firearms and ammunition on county property. These rulings uphold the legal
9 ability of the Board of Supervisors to ban the possession and sale of firearms and ammunition on City
10 and County property.

11 **B. Legislative Intent.**

12 With passage of this ordinance, the City and County seeks to ensure that its property and
13 facilities are used in a manner consistent with promoting the health, safety and welfare of all of its
14 residents.

15 **C. Definitions.**

16 **(1) City and County Property.**

17 (a) As used in this section, the term "City property" means real property, including any
18 buildings thereon, owned or leased by the City and County of San Francisco (hereinafter "City"), and
19 in the City's possession or in the possession of a public or private entity under contract with the City to
20 perform a public purpose including but not limited to the following property: recreational and park
21 property including but not limited to Golden Gate Park, the San Francisco zoo, Hilltop Park and San
22 Francisco's parks and playgrounds, plazas including but not limited to United Nations Plaza and
23 Hallidie Plaza, community centers such as Ella Hill Hutch Community Center, and property of the
24 Department of Recreations and Parks, the Port, and the Public Utilities Commission.

1 The term "City property" does not include any "local public building" as defined in Penal Code
2 Section 171b(c), where the state regulates possession of firearms pursuant to Penal Code Section 171b.

3 The term "City property" also does not include the public right-of-way owned by the City and
4 County of San Francisco including any area across, along, on, over, upon, and within the dedicated
5 public alleys, boulevards, courts, lanes, roads, sidewalks, streets, and ways within the City or any
6 property owned by the City that is outside the territorial limits of the City and County of San Francisco.

7 (2) Firearms. As used in this section the term "firearm" is any gun, pistol, revolver, rifle or any
8 device, designed or modified to be used as a weapon, from which is expelled through a barrel a
9 projectile by the force of an explosion or other form of combustion. "Firearm" does not include
10 imitation firearms or BB guns and air rifles as defined in Government Code Section 53071.5.

11 (3) Ammunition. "Ammunition" is any ammunition as defined in California Penal Code Section
12 12316(b)(2).

13 **C. Possession or Sale of Firearms or Ammunition on County Property Prohibited.**

14 No person shall:

15 (1) Bring onto or possess on county property a firearm, loaded or unloaded, or ammunition for
16 a firearm.

17 (2) Sell on county property a firearm, loaded or unloaded, or ammunition for a firearm.

18 **D. Exceptions, Ban on Possession.**

19 Section C(1) above shall not apply to the following:

20 (1) A peace officer, retired peace officer or person assisting a peace officer when authorized to
21 carry a concealed weapon under Penal Code Section 12027(a) or a loaded firearm under Penal Code
22 Section 12031(b)(1) and under 18 U.S.C. 926B or 926C.

23 (2) Members of the armed forces when on duty or other organizations when authorized to carry
24 a concealed weapon under Penal Code Section 12027(c) or a loaded firearm under Penal Code Section
25 12031(b)(4).

1 (3) Military or civil organizations carrying unloaded weapons while parading or when going to
2 and from their organizational meetings when authorized to carry a concealed weapon under Penal
3 Code Section 12027(d).

4 (4) Guards or messengers of common carriers, banks and other financial institutions when
5 authorized to carry a concealed weapon under Penal Code Section 12027(e) and armored vehicle
6 guards when authorized to carry a loaded weapon under Penal Code Section 12031(b)(7).

7 (5) Persons who are using at a target ranges for the purpose of practice shooting with a
8 firearm.

9 (6) Honorably retired federal officers or agents of federal law enforcement agencies when
10 authorized to carry a concealed weapon under Penal Code Section 12027(i) or a loaded weapon under
11 Penal Code Section 12031(b)(8).

12 (7) The public administrator in the distribution of a private estate or to the sale of firearms by
13 its auctioneer to fulfill its obligation under state law.

14 (8) Patrol special police officers, animal control officers or zookeepers, and harbor police
15 officers, when authorized to carry a loaded firearm under Penal Code Section 12031(c).

16 (9) A guard or messenger of a common carrier, bank or other financial institution; a guard of a
17 contract carrier operating an armored vehicle; a licensed private investigator, patrol operator or
18 alarm company operator; a uniformed security guard or night watch person employed by a public
19 agency; a uniformed security guard or uniformed alarm agent; a uniformed employee of private patrol
20 operator or private investigator when any of the above are authorized to carry a loaded firearm under
21 Penal Code Section 12031(d).

22 (20) Any authorized participant in a motion picture, television or video production or
23 entertainment event when the participant lawfully uses a firearm as part of that production or event.

24 **E. Exception, Ban on Sale.**

25 Section C(2) above shall not apply to the following:

1 (1) Purchase or sale of a firearm or ammunition for a firearm by a federal, state or local law
2 enforcement agency or by any other federal, state or local governmental entity.

3 (2) The public administrator in the distribution of a private estate or to the sale of firearms by
4 its auctioneer to fulfill its obligation under state law.

5 (3) Sale of ammunition at a target range for use at the target range.

6 **F. Penalty for Violation.**

7 Any person who violates any of the provisions of this Section 617(c) shall be deemed guilty of a
8 misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 or by imprisonment
9 in the county jail not to exceed six months, or by both.

10 **G. Severability.**

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

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: 
19 LINDA M. ROSS
20 Deputy City Attorney

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MAYOR, DISTRICT ATTORNEY, SUPERVISOR MAXWELL
BOARD OF SUPERVISORS



City and County of San Francisco

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Tails

Ordinance

File Number: 070682

Date Passed:

Ordinance amending the San Francisco Police Code by adding Section 617 to prohibit the possession or sale of firearms or ammunition on property controlled by the City and County of San Francisco.

July 17, 2007 Board of Supervisors — PASSED ON FIRST READING

Ayes: 8 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Sandoval

Noes: 3 - Daly, Jew, Peskin

July 24, 2007 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Sandoval

Noes: 3 - Daly, Jew, Peskin

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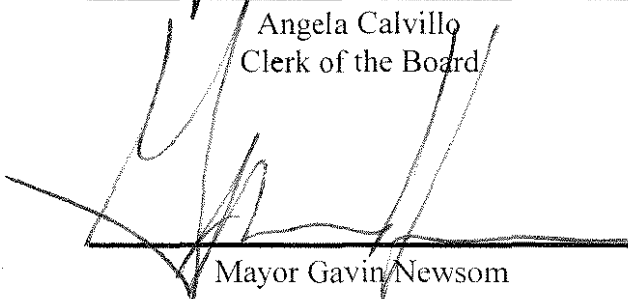
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on July 24, 2007 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Date Approved



Mayor Gavin Newsom