

FILE NO. 150973

ORDINANCE NO.

[~~Administrative~~ Police Code - Storage of ~~Peace Officers'~~ Firearms in Motor Vehicles]

1 Ordinance amending the ~~Administrative~~ Police Code to prohibit ~~City peace-officers~~ any  
2 person from placing, storing, or leaving a firearm in an unattended ~~a City-issued~~  
3 ~~firearm in a~~ motor vehicle ~~under the peace officer's control~~ unless it is in a locked  
4 ~~container~~ lock box or in the locked trunk of the motor vehicle.

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

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

13 Section 1. The ~~Administrative~~ Police Code is hereby amended by adding Article 36B,  
14 consisting of Sections 3600B, 3601B, 3602B, 3603B, 3604B, and 3605B, ~~Chapter 103 and~~  
15 ~~Section 103.1,~~ to read as follows:

16 **ARTICLE 36B: CHAPTER 103:**

17 **STORAGE OF FIREARMS IN MOTOR VEHICLES PEACE OFFICERS**

18 **SEC. 3600B. FINDINGS.**

19 (a) A report by the U.S. Department of Justice, Bureau of Justice Statistics, found that  
20 1.4 million firearms were stolen across the country from 2005 through 2010. This number  
21 represents an estimated average of 232,400 firearms stolen each year — about 172,000  
22 stolen during burglaries and 60,300 stolen during other property crimes. The report also  
23 found that the vast majority — at least 80 percent — were never recovered.  
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1           (b) Auto burglaries in dense urban areas are on the rise, and San Francisco has seen  
2 an absolute explosion of auto burglaries. According to the San Francisco Police Department's  
3 crime data, an alarming 47 percent spike in San Francisco car burglaries has occurred in the  
4 first half of this year. From the beginning of January through the end of June of 2015 there  
5 have been 11,917 reported vehicle burglaries in the City and County of San Francisco. That  
6 same number during the same time period escalated 62 percent from 2013. And it has  
7 skyrocketed to 171 percent from 2010, a year that saw 4,396 reported vehicle burglaries  
8 between January and the end of June.

9           (c) Recently, auto burglaries in the San Francisco Bay Area have resulted in the theft of  
10 firearms from vehicles. In July, a San Francisco resident was killed by someone using a  
11 handgun stolen four days earlier from a federal agent's car in downtown San Francisco. In  
12 August, a firearm was stolen from the UC Berkeley Police Chief's vehicle at Point Isabel  
13 Regional Shoreline in Richmond, California. In October of 2015, a gun was stolen from a  
14 California Highway Patrol officer's vehicle in the South of Market area of San Francisco. In  
15 the same month, three individuals were charged with murdering a woman in Golden Gate  
16 Park and a second victim in Marin using a handgun stolen from a car at Fisherman's Wharf.  
17 In late October, police officials recovered two stolen guns from cars in the home of a  
18 suspected serial auto burglar.

19           (d) These recent auto burglaries resulting in the theft of firearms have been from  
20 unattended vehicles. The City and County of San Francisco finds that it has a strong local  
21 interest in preventing the theft of firearms from unattended vehicles and that requiring  
22 reasonable measures to secure firearms left in attended vehicles will reduce gun thefts and  
23 prevent guns from falling into the hands of criminals.

1           **SEC. 3601B. DEFINITIONS.**

2           “Firearm” means a Firearm as defined in California Penal Code section 12001, as  
3 amended from time to time.

4           “Lock box” means a container that is listed on the California Department of Justice  
5 Bureau of Firearms roster of approved firearm safety devices.

6           “Motor Vehicle” means a vehicle as defined in California Vehicle Code section 415, as  
7 amended from time to time.

8           “Trunk” means a fully enclosed compartment that is separate from the main cabin of  
9 the Motor Vehicle.

10          “Unattended” means that a person aged 18 or over is not present in the Motor Vehicle.

11          ~~SEC. 103.1. STORAGE OF CITY ISSUED PEACE OFFICER FIREARMS IN~~  
12 ~~PRIVATE VEHICLES.~~

13           **SEC. 3602B. STORAGE OF FIREARMS IN MOTOR VEHICLES.**

14          ~~(a) A peace officer employed by the City and County of San Francisco may not place,~~  
15 ~~store, or leave unattended a City-issued firearm in any vehicle that is under the peace officer’s~~  
16 ~~control or direction, except the firearm may be placed:~~

17          ~~(a) No person may place, store, or leave a Firearm in an unattended Motor Vehicle~~  
18 ~~unless the Firearm is stored:~~

19                 ~~(1) In a locked container in the trunk of the vehicle as defined in California~~  
20 ~~Penal Code section 16850, as amended from time to time; or~~

21                 ~~———(2) In a trunk that is fully enclosed with a compartment that is separate from the~~  
22 ~~main cabin of the vehicle and locked by a secure locking device as defined in California Penal~~  
23 ~~Code section 16860, as amended from time to time.~~

24                 ~~(1) in a locked Trunk of a Motor Vehicle, provided that the automatic Trunk~~  
25 ~~release in the main cabin of the Motor Vehicle is disabled; or~~

1                   (2) in a Lock Box that is permanently affixed to the Trunk of a Motor Vehicle,  
2 provided that the Lock Box is locked; or

3                   (3) for Motor Vehicles with four or more wheels and lacking a Trunk, in a Lock  
4 Box that is permanently affixed to the Motor Vehicle and underneath a seat, or covered, or  
5 otherwise outside the view of the public, provided that the Lock Box is locked; or

6                   (4) for Motor Vehicles with fewer than four wheels, in a Lock Box that is  
7 permanently affixed to the Motor Vehicle, provided that the Lock Box is locked.

8                   ~~(b) This requirement applies to privately-owned vehicles and is in no way intended to~~  
9 ~~conflict with the applicable City department's rules governing the storage of firearms in City-~~  
10 ~~owned vehicles or vehicles under their control. To the extent there is a conflict between the~~  
11 ~~laws or rules, the more stringent requirement shall govern.~~

12                   (b) Notwithstanding subsections (a)(1), (a)(2), (a)(3), and (a)(4) no person may place,  
13 store, or leave a Firearm overnight in an unattended Motor Vehicle.

14                   ~~(c) This Article 36B section is not intended to conflict with applicable State or federal law, if~~  
15 ~~any.~~

16                   (d) This Article 36B is intended to apply to all Motor Vehicles within the City and County  
17 of San Francisco. Notwithstanding the foregoing sentence, nothing in this Article 36B shall  
18 apply to on-duty peace officers employed by jurisdictions other than the City and County of  
19 San Francisco or to federal officers or military personnel who are acting within the scope of  
20 their authority and discharging their official duties. To the extent this Article conflicts with a  
21 City department's rules governing the storage of firearms in City-owned Motor Vehicles or  
22 other Motor Vehicles under the department's control, the more stringent requirement shall  
23 govern. Any peace officer employed by City and County of San Francisco is exempt from the  
24 requirements of this Article provided that the officer's employing department has a policy  
25 regulating the storage of firearms for both on and off duty conduct by the officer.

1           **SEC. 3603B. PENALTY.**

2           Every violation of Section 3602B shall constitute a misdemeanor and shall be  
3 punishable by a fine not to exceed \$10,000 or by imprisonment in the county jail not to exceed  
4 six months, or by both.

5           **SEC. 3604B. PROMOTION OF GENERAL WELFARE.**

6           In enacting and implementing Article 36B~~this Section 103.4~~, the City is assuming an  
7 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers  
8 and employees, an obligation for breach of which it is liable in money damages to any person who  
9 claims that such breach proximately caused injury.

10          **SEC. 3605B. SEVERABILITY.**

11 It is the intention of the City and County of San Francisco that all persons within San  
12 Francisco be subject to Article 36B while in San Francisco. This Article or portion thereof  
13 shall not apply to anyone subject to the criminal prosecution under state law for the same  
14 conduct. If a court determines that this Article or any portion thereof may not be applied to a  
15 particular class of persons, it is the intention of the City and County of San Francisco that  
16 applicability of the Article or portion thereof to those persons shall be severed from the  
17 remainder of this Article or other portions thereof, which shall continue to apply to other  
18 persons.

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1 Section 2. Effective and Operative Dates.

2 (a) This ordinance shall become effective 30 days after enactment. Enactment  
3 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or  
4 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors  
5 overrides the Mayor’s veto of the ordinance.

6 (b) This ordinance shall become operative 60 days after enactment.

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

10 By: \_\_\_\_\_  
11 Buck Delventhal  
12 Deputy City Attorney

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