

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: William Scott, Police Chief
Vicki Hennessy, Sheriff
Phil Ginsburg, General Manager, Recreation and Parks Department
Jeff Adachi, Public Defender
George Gascón, District Attorney
Maggie Weiland, Acting Executive Director, Entertainment Commission

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee,
Board of Supervisors

DATE: February 21, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Stefani on February 13, 2018:

File No. 180159

Ordinance amending the Police Code to prohibit firearms at certain public gatherings.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Rowena Carr, Police Department
Kristine Demafeliz, Police Department
Theodore Toet, Sheriff's Department
Katherine Gorwood, Sheriff's Department
Nancy Crowley, Sheriff's Department
Sarah Madland, Recreation and Parks Department
Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the City Attorney
Crystal Stewart, Entertainment Commission

[Police Code - Prohibition of Firearms at Public Gatherings]

Ordinance amending the Police Code to prohibit firearms at certain public gatherings.

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

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

Section 1. The Police Code is hereby amended by adding Article 36C, to read as follows:

ARTICLE 36C: PROHIBITION OF FIREARMS AT PUBLIC GATHERINGS

SEC. 3600C. FINDINGS.

(a) The presence of concealed firearms in crowds of people at large public gatherings has the potential to present public safety risks associated with the accidental or intentional discharge of a weapon. Subject to limited exceptions, Section 617 of the Police Code prohibits the possession of firearms on City property. But Section 617 does not apply to the public right-of-way owned by the City.

(b) The U.S. Supreme Court emphasized in District of Columbia v. Heller, its 2008 decision which characterized the Second Amendment as recognizing an individual right to keep and bear arms, that "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" are valid public safety regulations under the Second Amendment.

1 (c) In recent years, public, densely populated spaces have been targeted by gunmen with the
2 apparent goal of causing mass physical and emotional harm, particularly apparent with the recent and
3 horrific mass shootings on the Las Vegas strip and at a nightclub in Orlando.

4 (d) A July 2015 Congressional Research Service Report found that between 1999 and 2013,
5 offenders committed 66 mass shootings in public places, killing 446 victims and injuring 329 victims.
6 The report defined a mass shooting as one where four or more victims are killed at a single event.

7 (e) Studies show that in general guns do not protect those who possess them from gun violence.
8 A 2009 study published in the American Journal of Public Health found that individuals possessing a
9 gun were 4.46 times more likely than individuals not possessing a gun to be shot when assaulted by
10 another individual possessing a gun.

11 (f) City residents must have a reasonable expectation of safety while at public gatherings.
12 Perceptions of safety are important to encouraging civic engagement and participation. The presence
13 of firearms at public gatherings can therefore depress involvement in civic life.

14 (g) The presence of firearms at public gatherings where expressive activity is taking place is
15 likely to intimidate some participants and chill or suppress speech, and cause some interested persons
16 not to attend such gatherings. According to news reports, the presence of firearms at the recent white
17 supremacist rallies in Charlottesville, Virginia, intimidated some people who disagreed with the
18 message of the rally participants into silence. While the threat of such chilling is reduced when the
19 open carrying of firearms is prohibited, nonetheless the knowledge that demonstrators may be carrying
20 concealed firearms can operate to deter and silence speech.

21 (h) Prohibiting the possession of firearms at certain outdoor public gatherings in the City will
22 promote the public health and safety by reducing the presence of firearms and the potential for gunshot
23 fatalities and injuries. The prohibition will also promote public participation at events involving
24 expressive activities, because it will reduce the likelihood of people being intimidated by the presence
25 of concealed firearms.

1 **SEC. 3601C. DEFINITIONS.**

2 For purposes of this Article 36C, the following definitions shall apply:

3 "Demonstration" shall mean a group of persons advocating for or against a political or other
4 cause by conveying a message to the public through expressive conduct, such as carrying or wearing
5 signs, singing, or speaking.

6 "Firearm" means any gun, pistol, revolver, rifle, or any other device designed or modified to be
7 used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or
8 other form of combustion. "Firearm" does not include imitation firearms as defined by California
9 Penal Code Section 16700, or BB devices or air rifles as defined in California Penal Code Section
10 16250.

11 "Public Gathering" shall mean:

12 (1) a parade that requires a permit under Article 4 of the Police Code and involves 50 or
13 more persons;

14 (2) a Demonstration held in the Right-of-Way involving 50 or more persons within an
15 area circumscribed by a 500-foot radius;

16 (3) a Demonstration on publicly-owned park land within the geographic boundaries of
17 the City involving 50 or more persons within an area circumscribed by a 500-foot radius; and

18 (4) an event that requires a permit under Article 6 of the Transportation Code and
19 involves 50 or more persons.

20 "Right of Way" shall mean any area across, along, on, over, upon, and within the dedicated
21 public alleys, boulevards, courts, lanes, roads, sidewalks, streets, and ways within the City.

22
23 **SEC. 3602C. FIREARMS PROHIBITED AT PUBLIC GATHERINGS.**

24 Except as stated in Section 3603C, no person shall possess a Firearm at any Public Gathering.
25

1 **SEC. 3603C. EXCEPTIONS.**

2 Section 3602C shall not apply to the following:

3 (a) A peace officer, retired peace officer, or person assisting a peace officer, when authorized
4 to carry a concealed weapon under California Penal Code Sections 25450-25475 or a loaded firearm
5 under California Penal Code Sections 25900-25925, and/or under 18 U.S.C. 926B or 926C;

6 (b) Members of the armed forces when on duty, and members of other organizations when
7 authorized to carry a concealed weapon under California Penal Code Section 25620 or a loaded
8 firearm under California Penal Code Section 26000;

9 (c) Military or civil organizations carrying unloaded weapons while parading or when
10 authorized to carry a concealed weapon under California Penal Code Section 25625;

11 (d) Patrol special police officers, animal control officers, zookeepers, and harbor police
12 officers, when authorized to carry a loaded firearm under California Penal Code Section 26025; and

13 (e) A guard or messenger of a common carrier, bank, or other financial institution; a guard of
14 a contract carrier operating an armored vehicle; a licensed private investigator, patrol operator, or
15 alarm company operator; a uniformed security guard or night watch person employed by a public
16 agency; a uniformed security guard or uniformed alarm agent; a uniformed employee of a private
17 patrol operator or private investigator, when any of the above are authorized to carry a loaded firearm
18 under California Penal Code Section 26030.

19
20 **SEC. 3604C. PENALTY.**

21 Any person who violates Section 3602C shall be deemed guilty of a misdemeanor and upon
22 conviction shall be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail not to
23 exceed six months, or by both.

1 **SEC. 3605C. PERMIT CONDITIONS.**

2 For any Public Gathering that requires a permit issued by the City, the City official,
3 department, board, commission, committee, or other authority responsible for issuing such permit shall
4 include as a condition of the permit that Firearms be prohibited at the Public Gathering, subject to the
5 exceptions stated in Section 3603C. This Article 36C shall not preclude the City from exercising its
6 discretion to impose a similar condition on a permit that does not meet the definition of a Public
7 Gathering.

8
9 **SEC. 3606C. UNDERTAKING FOR THE GENERAL WELFARE.**

10 In enacting and implementing this Article 36C, the City is assuming an undertaking only to
11 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
12 obligation for breach of which it is liable in money damages to any person who claims that such breach
13 proximately caused injury.

14
15 **SEC. 3607C. SEVERABILITY.**

16 If any provision, clause, or word of this Article 36C or the application thereof to any person or
17 circumstance is held invalid, such invalidity shall not affect any other provision, clause, word, or
18 application of this Article which can be given effect without the invalid provision, clause, word, or
19 application; and to this end the provisions of this Article are declared to be severable.

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21 ///

22 ///

23 ///


24 ///

25 ///

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

7
8 By:



BRADLEY A. RUSSI
Deputy City Attorney

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10 n:\leganalas2017\1800093\01238755.docx

LEGISLATIVE DIGEST

[Police Code - Prohibition of Firearms at Public Gatherings]

Ordinance amending the Police Code to prohibit firearms at certain public gatherings.

Existing Law

State law prohibits the open carrying of firearms within the City. City law prohibits carrying concealed firearms on most City-owned property, with the exception of the public right of way.

Amendments to Current Law

The proposed ordinance would amend the Police Code to prohibit all firearms at certain outdoor public gatherings held in the public right of way and on publically owned park land within the geographical boundaries of the City. The prohibition would apply to demonstrations, parades, and street closures involving 50 or more participants. The prohibition would not apply to law enforcement officers, members of the military, licensed security guards, and certain other individuals who are authorized to carry firearms under state law. Violation of the ordinance would be a misdemeanor. City departments that issue permits for events covered by the ordinance must include as a condition of the permit that no firearms be permitted.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 FEB 13 11:54
Time stamp
or meeting date

BY _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Catherine Stefani

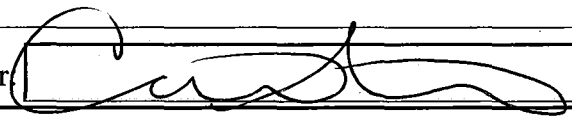
Subject:

Police Code - Prohibition of Firearms at Public Gatherings

The text is listed:

Ordinance amending the Police Code to prohibit firearms at certain public gatherings.

Signature of Sponsoring Supervisor



For Clerk's Use Only