



City of Culver City

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Staff Report Details (With Text)

File #: 23-384 **Version:** 1 **Name:**
Type: Ordinance **Status:** Action Item
File created: 11/1/2022 **In control:** City Council Meeting Agenda
On agenda: 11/14/2022 **Final action:**
Title: CC - ACTION ITEM: (1) Introduction of an Ordinance Adding Chapter 11.19 to the Culver City Municipal Code to Adopt Permitting and Security Requirements for Retail Establishments Selling Firearms and Ammunition; (2) Report on Other Firearms Regulations not Included in the Proposed Ordinance; and (3) Direction to the City Manager as Deemed Appropriate.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2022-11-14_ATT1_Proposed Ordinance Firearms Retailers.pdf, 2. 2022-11-14 ATT Map of 1000 FT Distancing for Firearms Retailers

Date	Ver.	Action By	Action	Result
11/14/2022	1	City Council Meeting Agenda		

CC - ACTION ITEM: (1) Introduction of an Ordinance Adding Chapter 11.19 to the Culver City Municipal Code to Adopt Permitting and Security Requirements for Retail Establishments Selling Firearms and Ammunition; (2) Report on Other Firearms Regulations not Included in the Proposed Ordinance; and (3) Direction to the City Manager as Deemed Appropriate.

Meeting Date: November 14, 2022

Contact Person/Dept.: Jesse Mays, Assistant City Manager
Lisa Vidra, Assistant City Attorney

Phone Number: City Manager's Office - (310) 253-6000
City Attorney's Office - (310) 253-5660

Fiscal Impact: Yes No **General Fund:** Yes No

Attachments: Yes No

Commission Action Required: Yes No

Public Notification: (E-Mail) Meetings and Agendas - City Council (11/09/2022); Firearms Policies and Regulations (11/09/2022)

Department Approval: John Nachbar, City Manager (11/09/2022)

RECOMMENDATION

Staff recommends the City Council (1) introduce an ordinance adding Chapter 11.19 to the Culver City Municipal Code (CCMC) to adopt permitting and security requirements for retail establishments selling firearms and ammunition; (2) receive a report on other firearms regulations not included in the proposed ordinance; and (3) provide direction to the City Manager as deemed appropriate.

BACKGROUND

At the August 22, 2022 meeting, City Council directed staff to return with recommendations from the City Council Ad Hoc Firearms Policy Subcommittee (Council Members Fisch and McMorrin) (“Subcommittee”) on an ordinance regulating retail firearms dealers, and a report back as to the feasibility and legal permissibility of other potential firearms policies. The Subcommittee met on September 16, 2022 and provided input to staff on a proposed ordinance (Attachment 1) as well as the other policies discussed below.

DISCUSSION

Proposed Ordinance Regulating Firearms and Ammunition Retailers

The proposed Ordinance (Attachment 1) establishes comprehensive licensing and security requirements for retail establishments selling firearms and ammunition. The Ordinance contains the following feasible and legally permissible local regulation of firearms and ammunition retail sales:

- Requires firearm and ammunition dealers to obtain a local permit to operate, which must be renewed annually;
- Requires specific site security and safe storage requirements;
- Requires liability insurance;
- Require dealers to post additional notices, including notices specifically warning about the risks and dangers associated with firearms;
- Prohibits unaccompanied minors from the premises;
- Prohibits from the premises persons known to be prohibited from possessing or purchasing firearms;
- Requires regular City inspections of dealer’s premises;
- Establishes record keeping and access standards such as requiring maintenance of inventory records and purchase records, and the ability of the City to inspect such records;
- Requires an annual permit fee based on cost recovery (including annual inspection, record keeping, etc.); and,
- Specifies that permissible hours of operation are 9:00 AM to 10:00 PM daily.

The proposed Ordinance provides existing firearms retailers a 120-day window for compliance, which will allow staff time to develop an application and application process, and to determine the annual fee and return to City Council with a fee resolution.

Potential Zoning Code Amendment

The City's Zoning Code currently states that "a minimum linear distance of 1,000 feet is required to separate all establishments that offer firearms for sale from all other establishments that offer firearms for sale and from parks, playgrounds, and primary and/or secondary schools." (CCMC Section 17.400.050). At the August 22 meeting, the City Council directed staff to work with the Subcommittee to consider the legal feasibility of adding additional sensitive uses to the current sensitive uses set forth in Section 17.400.050. Possible sensitive uses raised by members of the public, staff, or City Council at the August 22 public meeting included places of worship, bars, preschools, childcare centers, polling locations, nursing homes, hospitals, colleges, libraries, theaters, and other locations where families and groups gather.

After reviewing this matter with staff and the City Attorney's Office, the Subcommittee does not recommend adding to the list of sensitive uses, as it is not legally feasible at this time. The existing 1,000-foot distancing requirements between firearms retailers and from the listed sensitive uses already significantly limit the number of commercially zoned properties eligible for the establishment of any new firearms retailer in the City (Attachment 2). The addition of any one or more of the previously mentioned categories of sensitive uses either has no effect (because the areas around the sensitive use are already ineligible), or it would further limit the number of commercial properties eligible for firearms retailers to locate in the City, to such an extent it could result in a de facto ban.

Smitheries and Shooting Ranges

Smitheries and shooting ranges have different business activities than firearms and ammunition retailers. Currently, shooting ranges are in the same zoning classification as health/fitness facilities. Regulating shooting ranges would necessitate Zoning Code changes. If City Council desires and provides direction, staff and the Subcommittee will do additional research into the specific business activities of shooting ranges and smitheries, and potential regulations (including distancing requirements), if warranted, could be addressed in a separate ordinance.

Moratorium

At its August 22, 2022 meeting, the City Council also directed City staff to meet with the Subcommittee to consider a 45-day moratorium on new firearm and/or ammunition sellers in Culver City and report back as to the legal feasibility of such a moratorium. After reviewing this matter with staff and the City Attorney's Office, the Subcommittee does not recommend a moratorium, as it is not legally feasible at this time.

Prohibition of Firearms at Public Gatherings and/or on Public Property

Firearms in Public

The proposed ordinance addresses firearms and ammunitions sales and does not regulate the actions of individuals who possess firearms or carry firearms. California law generally prohibits people from openly carrying a loaded firearm in any public place or on a public street, or in a motor vehicle, subject to various narrow exceptions (i.e., under certain circumstances in smaller counties).

California law also generally prohibits people from carrying an exposed and unloaded handgun, with certain exceptions (i.e., peace officers, military personnel, licensed hunters, or carrying in a locked container). CCMC Chapter 13.03 prohibits firing a firearm in public.

As an exception to the laws against persons carrying firearms in public, under state law, an individual with a valid concealed weapons (CCW) license may carry a concealed loaded handgun in public.

Staff has determined that given the existing state law prohibitions and the recent Supreme Court decision on concealed carry, the City is likely preempted from adding additional prohibitions regarding carrying of firearms.

Firearms in public buildings

State law prohibits weapons in state and local public buildings, with narrow exceptions (such as for peace officers). State law expressly exempts persons holding a valid CCW license. Accordingly, the City is likely preempted from further regulating in this area.

Gun Shows

California has strict state law provisions pertaining to gun shows. Staff does not recommend prohibition of gun shows on private property, due to Second Amendment issues; however, if desired, the City Council can give direction to staff to research and to provide additional information on regulating gun shows on private property and/or prohibiting them on City property.

FISCAL ANALYSIS

Implementing a permitting and inspection system for firearms retailers will result in a fiscal impact because it will require staff time to implement. However, it is anticipated that the costs will be covered by annual permit fees paid for by the firearms retailers. Therefore, introduction of the proposed Ordinance will not have a fiscal impact.

ATTACHMENTS

1. Proposed Firearms and Ammunition Retailer Ordinance
2. Map of 1,000 Foot Distancing for Firearms Retailers

MOTIONS

That the City Council:

1. Introduce an Ordinance adding Chapter 11.19 to the Culver City Municipal Code to Adopt Licensing and Security Requirements for Retail Establishments Selling Firearms and Ammunition; and
2. Receive a report on other firearms regulations not included in the proposed Ordinance; and

3. Provide direction to the City Manager as deemed appropriate.