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APPROVED AS TO FORM AND LEGALITY

DRAFT

CITY ATTORNEY'S OFFICE

AMENDED IN PUBLIC SAFETY COMMITTEE DECEMBER 15, 2015

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS KALB AND CAMPBELL WASHINGTON

ORDINANCE REQUIRING THE SAFE STORAGE OF A FIREARM IN A RESIDENCE

WHEREAS, firearm injuries have a significant public health impact both nationally and locally; and

WHEREAS, between 1999 and 2010, over 8,300 unintentional shooting deaths were reported in the United States, including 2,383 children and young people under the age of 21; and

WHEREAS, on the average, over 16,000 people in the United States are treated each year in hospital emergency rooms for unintentional gunshot wounds; and

WHEREAS, in 2010, firearms were used in 19,392 suicides in the United States, constituting almost 62 percent of all gun deaths; and

WHEREAS, over 50 percent of suicides are committed with a firearm; and

WHEREAS, approximately 49 gun suicides were committed each day for the years 2005-2010; and

WHEREAS, firearms were used in 44 percent of suicide deaths among persons under age 25 in 2010; and

WHEREAS, more than 75 percent of guns used in suicide attempts and unintentional injuries of people under 19 years of age were stored in the residence of the victim, a relative, or a friend; and

WHEREAS, a 1991 study found that 8 percent of accidental shooting deaths resulted from guns fired by children under the age of six; and

WHEREAS, having a loaded or unlocked gun in the home is associated with an increased risk of gun-related injury and death; and

WHEREAS, in 2013, more than five children under the age of 12 were killed each month by guns that were improperly stored and secured at the home of a family member or friend; and

WHEREAS, children are particularly at risk of injury and death, or causing injury and death, when they can access guns in their own homes or homes that they visit; and

WHEREAS, a 2005 study found that an estimated 1.69 million children under age 18, including children as young as three years old, are strong enough to fire handguns; and

WHEREAS, more than two thirds of school shooters obtained their guns from their own home or that of a relative; and

WHEREAS, quick access to loaded firearms heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the attempt will be fatal. One third of youths who died by suicide had faced a crisis within the previous 24 hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that fewer than five minutes had passed between deciding on suicide and making the attempt. While fewer than 10 percent of suicide attempts by other means are fatal, at least 85 percent of firearm suicide attempts end in death; and

WHEREAS, guns kept in the home are more likely to be involved in an unintentional shooting, criminal assault, or used in suicides and against family and friends rather than in self-defense; and

WHEREAS, only one in ten firearm homicides in the shooter's home is considered justified. Of every ten firearm homicide victims killed at the shooter's residence, six were intimate partners or family members of the shooter, three were friends or acquaintances of the shooter, and only one was a stranger to the shooter; and

WHEREAS, applying trigger locks or using lockboxes when storing firearms in the home reduces the risk of firearm injury and death; and

WHEREAS, keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owners' knowledge or permission. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide or inflict injury, whether intentionally or unintentionally; and

WHEREAS, safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored; and

WHEREAS, there is a wide consensus among medical professionals, police chiefs, gun control advocates and gun rights groups that applying trigger locks or using lockboxes to store unsupervised guns in the home promotes health and safety; and

WHEREAS, the International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms; and

WHEREAS, the American Academy of Pediatrics recommends that, if families must have firearms in their homes, the firearms should be stored locked, unloaded and separate from locked ammunition; and

WHEREAS, both gun control and gun rights advocates endorse the use of locking devices when storing guns to ensure that unauthorized or untrained persons cannot use the gun to inflict injury or death. For example, the National Rifle Association's Home Firearm Safety Handbook, developed and used as part of the National Rifle Association (NRA) Basic Firearm Training Program, emphasizes that "there is one general rule that must be applied under all conditions: Store guns so they are not accessible to untrained or unauthorized persons." The NRA Guide To The Basics Of Personal Protection In The Home further explains that "all storage methods designed to prevent unauthorized access utilize some sort of locking method"; and

WHEREAS, requiring firearms to be stored with trigger locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home; and

WHEREAS, the locking requirements apply only to handguns that are not being carried. Gun owners and adults over 18 years of age may carry loaded and unlocked handguns in the home at any time. The safe storage requirements also permit owners to store their handguns fully loaded; and

WHEREAS, gun security does not preclude quick access. For example, affordable lockboxes using Simplex-type locks, which pop open immediately when several keys or pushbuttons are touched in a preset sequence, are widely available. Users report that they can retrieve a loaded weapon in just two to three seconds, and that the locks are also easy to open in the dark. The NRA describes this type lockbox as providing "a good combination of security and quick access." Some lockboxes also feature biometric locks, which provide immediate access when they scan the owner's fingerprint; and

WHEREAS, portable lockboxes can store loaded weapons such that they are always within easy reach on counters, tables or nightstands. Such safely stored weapons are more quickly and easily retrieved for use in self-defense; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The Following Chapter is added to the Oakland Municipal Code

CHAPTER

Safe Storage of Firearms in a Residence

A. Title

This chapter shall be known as Oakland's Safe Storage of Firearms in a Residence Act

B. Findings and Purpose

The City Council finds as follows:

1. This law is intended to reduce gun violence and gun injuries and make the City safer.
2. Having a loaded or unlocked gun in the home is associated with an increased risk of gun-related injury and death.
3. In 2013, more than five children under the age of 12 were killed each month by guns that were improperly stored and secured at the home of a family member or friend.
4. Children are particularly at risk of injury and death, or causing injury and death, when they can access guns in their own homes or homes that they visit.
5. A 2005 study found that an estimated 1.69 million children under age 18, including children as young as three years old, are strong enough to fire handguns.
6. More than two thirds of school shooters obtained their guns from their own home or that of a relative.
7. Quick access to loaded firearms heightens the risk that a young person's impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the attempt will be fatal. One third of youths who died by suicide had faced a crisis within the previous 24 hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that fewer than five minutes had passed between deciding on suicide and making the attempt. While less than 10 percent of suicide attempts by other means are fatal, at least 85 percent of firearm suicide attempts end in death.
8. Guns kept in the home are more likely to be involved in an unintentional shooting, criminal assault, or used in suicides and against family and friends rather than in self-defense.
9. According to information from the Oakland Police Department, from 2005 through 2015, there were approximately 707 residential burglaries reported where a firearm was stolen.
10. Applying trigger locks or using lockboxes when storing firearms in the home reduces the risk of firearm injury and death.
11. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owners' knowledge or permission. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide or inflict injury, whether intentionally or unintentionally.
12. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.
13. There is a wide consensus among medical professionals, police chiefs, gun control advocates and gun rights groups that applying trigger locks or using

lockboxes to store unsupervised guns in the home promotes health and safety.

C. Definitions.

“Firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion.

“Residence” means any structure intended or used for human habitation, including but not limited to, houses, condominiums, rooms, motels, and time-shares. For purposes of this ordinance, it also includes a garage which is enclosed within or located adjacent to such a structure and which is not open to the public.

“Locked Container” means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device as defined by California Penal Code Section 16850. ~~For purposes of this ordinance, it also includes~~ it includes a lock box that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices. For purposes of this Chapter, it does not include a bag or other container made of fabric or other penetrable material, such as a regular purse, backpack, or gym bag.

D. Safe Storage of Firearms in a Residence Required.

Except when carried on his or her person, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice’s list of approved firearms safety devices.

E. Penalty

A violation of this section shall be subject to enforcement through criminal prosecution and/or civil penalties, as provided herein.

1. Violation a Misdemeanor

A person who violates this Chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000), or by both. Each violation shall be deemed a distinct and separate offense.

2. Civil Penalties

The City may assess civil penalties pursuant to Oakland Municipal Code Chapter 1.08 (Civil Penalties) in the amount of one thousand dollars (\$1,000) per violation.

F. Remedies not exclusive.

Remedies under this Chapter are cumulative and not exclusive. They are in addition to and do not supersede or limit other administrative, civil, and/or criminal remedies provided under state or federal law, or other provisions of the Oakland Municipal Code. The City may seek an order for the award of attorney's fees.

G. Amendments to State laws adopted herein.

In the event that any California statute adopted or referred to in this Chapter is amended or succeeded by another enactment of the California Legislature, such amendments shall be deemed automatically adopted as part of this Chapter as if fully set forth herein unless the City Council amends this Chapter to provide otherwise.

SECTION 2. Severability and Validity.

If any provision of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions. The City Council declares that it would have adopted the remaining provisions irrespective of the provisions, sections, sentences, clauses, or words declared invalid or unconstitutional.

SECTION 3. Effective Date.

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall be effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT
GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

**ORDINANCE REQUIRING THE SAFE STORAGE OF A
FIREARM IN A RESIDENCE**

This ordinance provides that no person shall keep a firearm in any residence unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock. Violation may be punishable as a misdemeanor and/or a civil penalty.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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