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OFFICE OF THE CITY CLERK

OAKLAND

INTRODUCED BY COUNCILMEMBER DESLEY BROOKS AND ALAMEDA COUNTY CHIEF
PROBATION OFFICER DAVID MUHAMMAD

2011 DEC -1 PM 5:54

ORDINANCE NO. _____ C.M.S.

**ORDINANCE ESTABLISHING THE GUN OFFENDERS REGISTRY ACT
(GORA)**

Whereas, gun violence is having a devastating affect on the quality of life in many Oakland neighborhoods; and

Whereas, over 90% of the homicides committed in the City of Oakland are committed with a firearm; and

Whereas, studies indicate people who carry illegal guns pose a very high risk of recidivism; and

Whereas, Gun Offender Registry Acts have been used in other urban cities to require defendants convicted of specified gun crimes to register their addresses with the police; verify them in person every 6 months; and promptly notify the police if they change addresses for a period of time following their conviction or period of incarceration; and

Whereas, a significant number of defendants charged with felony gun crimes have a prior gun arrest; and

Whereas, Gun Offender's Registry Acts (GORAs) build upon Megan's Laws, which have proven to be effective enforcement tools against sex offenders around the country;

Whereas, the registry includes offenders who are convicted of illegal possession of a loaded handgun, possession of three or more illegal handguns, possession of a handgun by a convicted felon, possession of an assault weapon, and possession of a disguised firearm; and

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

Short Title:

This local law shall be known as the "Gun Offender Registration Act."

Definitions:

For purposes of this chapter:

- a. "Chief" shall mean the police Chief of the city of Oakland or his or her designee.
- b. "Department" shall mean the police department of the city of Oakland.
- c. "Gun offender" shall mean any person who is convicted, after the effective date of this act, of a gun offense as defined in subdivision e of this section in a court in the city of Oakland. Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this chapter as one conviction. The entry of a plea of guilty, a plea of guilty where the gun offender does not accept responsibility, a plea of nolo contendere, or a verdict of guilty, shall constitute a conviction for purposes of this chapter; provided, however, that any conviction set aside pursuant to law, including any conviction for a gun offense that has been reversed upon appeal, is not a conviction for purposes of this chapter. The term "gun offender" shall not include any person who has been pardoned for all gun offenses by the governor.
- d. "Gun offense" shall mean a conviction of criminal possession of a weapon in the third degree in violation of subdivision _____ of section _____ of the penal law or criminal possession of a weapon in the second degree in violation of subdivision _____ of section _____ of the penal law.
- e. "Local correctional facility" shall mean any County Correctional facility and/or privately run correctional facility that contracts with the County to house inmates.
- f. "State correctional facility" shall mean a correctional facility that is owned and/or operated by the State or a privately run correctional facility that houses inmates pursuant to a contract with the State Department of Corrections.

Duty to Register and Verify:

- a. A gun offender shall register with the department at the time sentence is imposed on a form prescribed by the department.
- b. Registration as required by this chapter shall consist of a statement in writing signed by the gun offender giving such information as may be required under subdivision c of this section.
- c. A gun offender shall, to the extent required by the department, provide the following information to the department:
1. The gun offender's name, all aliases used, date of birth, sex, race, height, weight, eye color, number of any driver's license or non-driver photo ID card, home address and/or expected place of residence.
 2. A photograph, updated during the period of registration as

described in subdivision d of this section.

3. A description of the offense for which the gun offender was convicted, the date of conviction and the sentence imposed.

4. The name and address of any institution of career education, higher education or secondary education at which the gun offender is or expects to be enrolled or attending and whether such offender resides in or will reside in a facility owned or operated by such institution.

5. The gun offender's expected place of employment, including name and phone number of supervisor and mailing address of employer.

6. Any other information deemed pertinent by the police department.

d. First personal appearance. A gun offender who is required to register shall personally appear at such office as the Chief may direct within forty-eight hours of (i) release, in the event the gun offender receives a sentence of imprisonment, or (ii) the time sentence is imposed, if such sentence does not include imprisonment, for the purpose of personally verifying such information as may be required under subdivision c of this section with the department. The department may at such time photograph the gun offender. The Chief may require the gun offender to provide such documentation as the Chief deems acceptable verifying such information.

e. For a gun offender who is required to register under this chapter and who is a resident of the City of Oakland, every six months after the gun offender's initial registration date during the period in which he or she is required to register under this chapter the following applies:

1. Except as specified in paragraph 2 of this subdivision, within twenty days of each six month anniversary of the gun offender's initial registration date, the gun offender shall personally appear at such office as the Chief may direct for the purpose of verifying such information as may be required under subdivision c of this section with the department. The department may at such time photograph the gun offender. The Chief may require the gun offender to provide such documentation as the Chief deems acceptable verifying such information.

2. If a gun offender required to register under this chapter who is a resident of the City of Oakland is confined to any state or local correctional facility, hospital or institution throughout the twenty-day period described in paragraph 1 of this subdivision, such gun offender shall personally appear as required by paragraph 1 within forty-eight hours of release. The department may at such time photograph the gun offender.

f. The department is authorized to maintain in the registry database information other than that specified in subdivision c of this section.

g. Any gun offender shall, within ten calendar days after establishing residence in the city of Oakland or changing residences within the city of Oakland personally appear at such office as the Chief may direct and there provide verification information as required by this chapter. The Chief may require the gun offender to provide such documentation as the Chief deems acceptable verifying the change in residence.

Duration of Registration and Verification:

A gun offender shall register and verify for a period of four years from the date of conviction of a gun offense, if the conviction does not include imprisonment, or for a period of four years from the date of release after conviction of a gun offense, in the event the gun offender receives a sentence of imprisonment.

Sharing of Registration Information:

The department is authorized to make the registry available to any regional or national government-operated registry of gun offenders for the purpose of sharing information. The department may accept files from any regional or national registry of gun offenders. The department is also authorized to make the registry available to other City agencies.

Cooperation with other Agencies:

The department is authorized to cooperate with state and City agencies and the judiciary to facilitate implementation of this chapter. Assistance and cooperation in the implementation of this chapter shall be provided by other City departments and agencies upon request by the Chief

Regulations:

The Chief may make and promulgate such rules and regulations and establish such forms as are necessary to carry out the provisions of this chapter.

Penalties:

Any violation by a gun offender of this chapter or of rules and regulations established pursuant to this chapter, including any failure to register or to verify pursuant in the manner and within the time periods provided for in this chapter, shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both. Failure to receive any form shall not excuse any violation of this chapter.

Severability:

If any section, subsection, subpart or provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Ordinance and the application of such to other persons or circumstances shall not be affected thereby.

Effective Date:

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

IN COUNCIL, OAKLAND, CALIFORNIA, NOVEMBER ____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN,
SCHAAF, NADEL, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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NOTICE AND DIGEST

**ORDINANCE ESTABLISHING THE GUN OFFENDERS REGISTRY ACT
(GORA)**

This Ordinance will establish the Gun Offender Registry Act which will require defendants convicted of specified gun crimes to register their addresses with the police; verify them in person every 6 months; and promptly notify the police if they change addresses for a period of time following their conviction or period of incarceration; and

Whereas, the registry includes offenders who are convicted of illegal possession of a loaded handgun, possession of three or more illegal handguns, possession of a handgun by a convicted felon, possession of an assault weapon, and possession of a disguised firearm; and