

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

*[Signature]*  
FILED  
OFFICE OF THE CITY CLERK  
OAKLAND, CALIFORNIA

**ORDINANCE NO. 12529 C.M.S.** 2003 JUL 10 PM 7:02

**ORDINANCE AMENDING SECTIONS 9.36.131 AND 9.36.141 OF THE OAKLAND MUNICIPAL CODE PROVIDING A 60-DAY REPORTING PERIOD DURING WHICH THE OWNER OR PERSON IN POSSESSION OF A FIREARM IS REQUIRED TO REPORT THE THEFT OR LOSS OF A FIREARM OCCURRING BETWEEN AUGUST 1, 1992 AND JULY 30, 2002**

**WHEREAS**, California state law mandates the reporting of certain events and occurrences which may result in a detriment to the public health and safety, including auto accidents (Vehicle Code section 20001), child abuse (Penal Code section 11172), the release of hazardous substances (Vehicle Code sections 23112.5 and 40000.70) and missing persons (Penal Code section 11114); and

**WHEREAS**, the City Council of the City of Oakland adopted Ordinance Number 12440 C.M.S. on July 30, 2002, requiring the owner and/or person in possession of a firearm to report the theft or loss of a firearm within 48 hours; and

**WHEREAS**, said ordinance, Oakland Municipal Code Chapter 9.36.13, required owners of firearms that were stolen or lost as of July 30, 2002, to report such loss or theft to the Oakland Police Department; and

**WHEREAS**, the "time to crime," i.e., the time span between the date a firearm is lost or stolen and the date said lost or stolen firearm is used in the commission of a crime averages 8.92 years; and

**WHEREAS**, to provide immediate value to Oakland Police Department criminal investigations, the Department needs theft and loss information on firearms that have been lost or stolen between August 1, 1992 and July 30, 2002;

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

**Section 1:** Chapter 9.36, sections 9.36.131 and 9.36.141 of the Oakland Municipal Code are hereby amended as follows:

**“9.36.131. Theft or Loss of Firearms – Reporting of Stolen and/or Lost Firearms Required**

- A. Any person owning a firearm or in possession of a firearm is required to report the theft or loss of such firearm to the Oakland Police Department when:
  - 1. owner resides in Oakland, AND/OR
  - 2. the theft or loss of the firearm occurs in Oakland.
- B. A person subject to the reporting requirements in subsection A is required to report the theft or loss of a firearm within forty-eight (48) hours of knowing that the firearm has been stolen or lost.
- C. A person who has experienced the theft or loss of a firearm between August 1, 1992 and July 30, 2002 and who otherwise meets the reporting requirements in subsection A is required to report the loss or theft of such firearm to the Oakland Police Department within 60-days of the effective date of the Amendment under which this new section was adopted.

**9.36.141 Penalty - Misdemeanor**

- A. Failure to report within 48 hours the theft or loss of a firearm pursuant to ~~this section~~ subsection B of section 9.36.131, when the owner or person in possession knew or should have known of the theft or loss, shall be a misdemeanor subjecting the owner to prosecution.
- B. Failure to report firearms theft or loss within the timeframe set forth within subsection C of section 9.36.131 shall be a misdemeanor subjecting the owner to prosecution.

**9.36.151 Severability and Validity**

If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions and the City Council hereby declares that it would have adopted the remaining provisions irrespective of the fact that a provision or provisions are declared invalid or unconstitutional.

Section 3: **Effective Date**

The provisions of this ordinance shall become operative 30 days after final passage by the City Council.”

**Introduction Date: JUL 29 2003**

IN COUNCIL, OAKLAND, CALIFORNIA, **SEP 16 2003**, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**


AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, ~~WON PRESIDENT DE LA FUENTE~~ - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

**EXCUSED - DE LA FUENTE - 1**

ATTEST:   
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California