

ORDINANCE NO. NS-238

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO AMENDING TITLE 4, BY ADDING CHAPTER 4.22 ESTABLISHING THE CITY'S CONCEALED CARRY FIREARM LICENSING PROCESS AND PROHIBITING THE CARRY OF FIREARMS IN SENSITIVE PLACES

WHEREAS, State Penal Code Section 26155 authorizes Chiefs of Police to issue concealed carry firearm licenses;

WHEREAS, as the City contracts for police services with the Town of Los Gatos, the Los Gatos-Monte Sereno Police Chief is responsible for issuing concealed carry firearm licenses;

WHEREAS, the 2022 Supreme Court decision of *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (“Bruen”) held that a “good cause” requirement for a concealed carry firearm license is unconstitutional;

WHEREAS, the *Bruen* decision also held that municipalities can prohibit the carrying of concealed weapons in “sensitive places;” and

WHEREAS, the City wishes establish a process consistent with the Town of Los Gatos’s process to ensure efficiency and consistency for the Police Chief and to add a prohibition on firearms, including concealed carry firearms, in “sensitive places;”

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Monte Sereno as follows:

SECTION I. Legislative Findings:

- A. The City of Monte Sereno has a compelling interest in protecting the health and safety of the public and the orderly functioning of government within its bounds.
- B. The incidence of firearm-related fatalities and injuries has reached alarming and unacceptable proportions at the national, state, and local level, as described in a report by the Santa Clara County Department of Public Health, “Cost of Gun Violence in Santa Clara County” (Aug. 12, 2022), which notes that the age-adjusted firearm death rate in Santa Clara County was 4.8 people per 100,000 in 2020, the highest rate in the past decade.
- C. According to the Gun Violence Archive (<https://www.gunviolencearchive.org>), California experienced 369 mass shootings (defined as an incident that kills or injures four or more people) between 2014 and January 2023. In Santa Clara County, mass shooting tragedies have included May 26, 2021, at the VTA railyard in San Jose (10 dead including the shooter); July 28, 2019, at the Gilroy Garlic festival (4 dead including the shooter, 17 wounded); Oct. 5, 2011, at the

Lehigh Cement Plant in Cupertino (3 dead, 7 wounded); and Feb 16, 1988 at ESL Inc. in Sunnyvale (7 dead, 4 wounded).

- D. Previously, California law required applicants for permits to carry a concealed weapon to demonstrate “good cause” for the issuance of the license. The United States Supreme Court recently held, in *N.Y. State Rifle & Pistol Ass’n v. Bruen* (2022), 142 S. Ct. 2111, that such “good cause” requirements are unconstitutional under the Second and Fourteenth Amendments. This development in the law will likely result an increase in concealed carry permits issued in California.
- E. The U.S. Supreme Court has said that laws prohibiting the carrying of firearms in certain “sensitive places,” including “schools and government buildings,” and “legislative assemblies, polling places, and courthouses,” may be consistent with the Second Amendment. (*N.Y. State Rifle & Pistol Ass’n v. Bruen* (2022), 142 S. Ct. 2111; *D.C. v. Heller* (2008), 554 U.S. 570.)
- F. Through this Ordinance, the City Council desires to establish a process to issue concealed carry firearm licenses and prohibit the carry of firearms in sensitive places, including by those who are licensed to carry a concealed weapon, consistent with the Supreme Court’s guidance in *N.Y. State Rifle & Pistol Ass’n v. Bruen*.

SECTION II. Title 4 of the Monte Sereno Municipal Code is hereby amending by adding Chapter 4.22, “Weapons,” to read as follows:

“WEAPONS

- 4.22.010** **Definitions**
- 4.22.020** **License to carry pistol, revolver, or other firearm capable of being concealed upon the person**
- 4.22.030** **Prohibited acts – Ban on possession and sale of firearms**
- 4.22.040** **Exceptions – Ban on possession**
- 4.22.050** **Exceptions – Ban on sale**

4.22.010. Definitions.

For the purpose of this Chapter, the following words and phrases have the meaning ascribed to them, unless otherwise noted:

“Ammunition” means any ammunition as defined in California Penal Code Section 16150, or any successor legislation.

“Chief of Police” means the Chief of the City Police or his/her designated.

“Concealed firearm” has the meaning set forth in Section 25400 of the California Penal Code or any successor legislation.

“Firearm”:

- (a) Means any gun, pistol, revolver, rifle, or any device, designated or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion of other form of combustion.

(b) Includes:

1. A firearm, as defined in California Penal Code section 16520 or any successor legislation.
2. A BB device, as defined in California Penal Code section 16250 or any successor legislation.
3. An imitation firearm, as defined in California Penal Code section 16700(a) or any successor legislation.

“Licensee” means a person granted a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Sections 26150, 26155, or 26170 of the California Penal Code.

“Sale” or “Sell”:

(a) Means any transaction, with or without the exchange of consideration, which:

1. Transfers ownership, title, possession, or control of a firearm, or ammunition, or both; or
2. Gives, loans, leases, or delivers a firearm, or ammunition, or both.

(b) Includes the act of placing a order for any of the aforementioned transfers.

(c) “School” means “school zone” as defined in Penal Code Section 626.9 as well as institutions that provide preschool, post-secondary, technical, or trade or vocational education, and includes all athletic facilities, offices, cafeterias and eating establishments, health care facilities, research facilities, parking lots, and shared rooms and common areas of dormitories thereof. “School” does not include a private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption.

“Sensitive Place” means any of the following places:

(a) City Property;

(b) Any School;

(c) A church, synagogue, mosque or other place of worship, including in any parking area immediately adjacent threats. Unless the operation of the place of worship clearly and conspicuously posts a sign at the entrance of the building or on the premises indication that license holders are permitted to carry firearms on the property.

“City Property” means City Hall and other City government buildings.

“Unloaded”:

(a) Means:

1. No ammunition is in the firearm’s chamber or cylinder; and
2. No ammunition, clip, tube, speed loader, or magazine that is compatible with the firearm and that contains ammunition is on the person who is carrying the firearm.

(b) Does not include a muzzle-loading firearm that is capped or primed and has powder charge and ball, shot, or projectile in the barrel or cylinder.

4.22.020. License to carry pistol, revolver, or other firearm capable of being concealed upon the person.

- (a) In accordance with Penal Code Section 26155 and the concealed carry firearm license procedures implemented by the Chief of Police, a person may apply for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person.
- (b) The Chief of Police may issue a concealed carry firearm license to that person upon proof of all of the following:
 - 1. The applicant is of good moral character.
 - 2. The applicant is a resident of the City of Monte Sereno.
 - 3. The applicant has completed a course of training as described in Penal Code Section 26165.
 - 4. The application complies with state law, the City Municipal Code, and any concealed carry firearm license procedure adopted by the Chief of Police.
- (c) License applications shall be submitted electronically using the Town of Los Gatos's on-line concealed carry license application portal.
- (d) The Chief of Police or designee shall review the completed application and corresponding documents to determine whether it satisfies the requirements set forth in state law, the City's Municipal Code, and the Town of Los Gatos's concealed carry firearm license procedure.
- (e) Any such license issued shall contain a description of the Firearm subject to such license, giving the name of the manufacturer, the serial number and caliber and gauge, and shall set forth the date issued and expiration date, which shall in no event exceed two years from the date of issuance.
- (f) In accordance with Penal Code Section 26200, the license may contain restrictions limiting the use of the concealed carry firearm.
- (g) If the Chief of Police issues a license to the applicant, a duplicate original copy thereof shall be filed and remain in the office of the Chief of Police.
- (h) The Chief of Police may deny any application that does not comply with state law, the City's Municipal Code, or the Town of Los Gatos's concealed carry firearm license procedure or revoke any license if the license holder does not comply with state or local law, the City's Municipal Code, the Town of Los Gatos's concealed carry firearm license procedure, or a license condition. In such event, the Chief of Police shall notify such applicant or Licensee of the decision in person or by mail at the address shown on the application on file in the office of the Chief of Police. Notice shall be deemed to have been given on the day the notice is mailed or personal notice given.

4.22.030. Prohibited acts – Ban on possession and sale of firearms.

No person shall, including those persons holding a concealed carry weapons license:

- (a) Bring onto or possess at a Sensitive Place:

1. A Firearm, loaded or unloaded.
 2. Ammunition for a Firearm.
- (b) Sell on City property:
1. A Firearm, loaded or unloaded.
 2. Ammunition for a Firearm.

4.22.040. Exceptions – Ban on possession.

Section 4.22.030 does not apply to the following:

- (a) A federal, state, or local law enforcement officer when such person is authorized to carry a concealed Firearm or a loaded Firearm under state law or under 18 U.S.C. Section 926B or 926C or any successor legislation;
- (b) An honorably retired officer or agent of a law enforcement agency, when authorized to carry a concealed or loaded Firearm under State law;
- (c) A security guard or messenger of a financial institution, a guard of a contract carrier operating an armored vehicle, a licensed private investigator, a patrol operator, an alarm company operator, or security guard, when such persons are authorized by applicable state or federal law to carry a Firearm and when such persons are engaged in the exercise of their official duties;
- (d) An active member of the military forces of the State or of the United States when engaged in the performance of lawful duties and orders;
- (e) A person delivering unloaded Firearms as authorized by state or federal law, to or from law enforcement;
- (f) A person lawfully possessing an unloaded Firearm in the locked trunk or inside a locked container in a motor vehicle;
- (g) A person who is lawfully at and using a firearms target range in accordance with its rules and applicable law.
- (h) A patrol special police officer, animal control officer, or zookeeper when authorized by applicable California or federal law to carry a loaded Firearm and when engaged in exercise of official duties on city properties.
- (i) An officer authorized to transport prisoners under applicable California or federal law.
- (j) An authorized participant in a motion picture, television, film or video production, or musical theatrical production when the participant lawfully uses an unloaded Firearm as a part of that production.
- (k) A hunter with a valid hunting license when going to or returning from a legal hunting expedition; provided, however, that when transiting through any area where Firearms are prohibited; any Firearm is safely stored in a locked container or otherwise secured using a firearm safety device as defined by California Penal Code Section 16540 or any successor legislation;
- (l) A Licensee in their residence or place of business in accordance with Section 12026 of the California Penal Code and any successor legislation.

4.22.50. Exceptions – Ban on sale.

Section 4.22.040 does not apply to the purchase of sale of a Firearm, or Ammunition, or both, by a federal, state, or local law enforcement agency or by any other federal, state, or local government entity.”

SECTION XI. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The City hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION XII. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION XIII. Publication.

The City Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

SECTION XIV. Effective Date.

This Ordinance was introduced at a regular meeting of the City Council of the City of Monte Sereno on the 15th of August, 2023, and adopted by the following vote as an ordinance of the City Council of the City of Monte Sereno at a regular meeting of the City Council of the City of Monte Sereno on the 3rd day of October, 2023. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES: CRAIG, ELLAHIE, WOLSHEIMER AND MEKECHUK

NAYS: TURNER

ABSENT: NONE

ABSTAIN: NONE

SIGNED:

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Bryan Mekechuk, Mayor

ATTEST:

DocuSigned by:

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Gloisy Gonzalez-Langarica, City Clerk