



CITY COUNCIL AGENDA REPORT

Meeting Date: June 17, 2021

From: Thomas McMorrow, City Attorney and Lisa Macias, Police Chief

Subject: Ordinance to Require the Safe Storage of Firearms in a

Residence

Recommendation:

Introduce an Ordinance to require the safe storage of firearms in a residence.

Background

Having a loaded gun in a home is associated with an increased risk of gun-related injury and death according to multiple studies.

The New England Journal of Medicine reports that residing in a home where a gun is kept increased an individual's risk of death by homicide significantly according to a study conducted by an author affiliated with Massachusetts General Hospital and Harvard Medical School. Other study—including national studies—came to the same or similar conclusions.

Children are particularly at risk of injury and death from firearms when firearms are not safely secured in their own homes or in the homes they visit. According to national data, children and young adults constitute 38% of all firearm deaths and non-fatal injuries. More than 75% of guns used in suicide attempts and unintentional injuries of children and young adults were stored in the residence of the victim, a relative, or a friend. Nearly all of accidental shooting deaths among children occur in the home, and most of these deaths occur when children are playing with an unsecured loaded gun their parents' absence.

Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.

In San Mateo County, in the past 10 or so years, there have been more than 300 gun-related deaths. From information gathered at County gun "buy-back" events, a majority of persons turning in the guns report they have kept the gun hidden in a discrete location or kept the gun loaded, notwithstanding that these methods are not considered "safe storage." Many of the persons who surrendered their guns did so for "safety reasons" and a majority of those who inherited a gun did not know how to store properly the gun.

San Mateo County, many cities in San Mateo County, and many cities throughout the Bay Area have already adopted a Safe Storage of Firearms Ordinance, and, to staff's knowledge, such ordinances have not been challenged as infringing on any rights under the Second Amendment.

Using the County Ordinance as a model, staff has drafted a Safe Storage of Firearms Ordinance and it is attached.

Discussion

Applying trigger locks or using lock boxes when storing firearms in a home reduces the risk of injury or death from a firearm. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner’s knowledge or permission. This simple safety measure significantly decreases the risk that a firearm will be used, for example, to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where firearms are stored.

Under the proposed Ordinance, safe storage of firearms in a residence would require that the firearm be kept in a “locked container” or disabled with a trigger lock.

Violations of the ordinance would typically result in an administrative citation (*e.g.*, when a violation is observed as part of other enforcement activity officers would issue an administrative citation with a fine).

Council’s Ad-Hoc Committee Recommendation

Council appointed an ad hoc committee (Council members Lentz and Macklin) to review this proposed Ordinance. It did so on June 9 and the committee recommends its introduction and adoption.

Also, in the past, when the County or neighboring cities have undertaken firearm buyback programs, the Police Department has provided personnel to assist with the paperwork necessary for these programs to work. The committee also requested the Police Chief to inform the City Council should the County or neighboring cities undertake another firearm buyback program to determine if the City has an interest in contributing funds, as well as personnel, in that effort.

Attachment 1: Ordinance No. 662 Safe Storage of Firearms in a Residence



Thomas McMorrow, City Attorney

Stuart Schillinger for

Clay Holstine, City Manager

Lisa Macias

Lisa Macias, Police Chief

ATTACHMENT 1

ORDINANCE NO. 662

AN ORDINANCE OF THE CITY OF BRISBANE ADDING CHAPTER 8.52 TO THE BRISBANE MUNICIPAL CODE TO REQUIRE THE SAFE STORAGE OF FIREARMS IN A RESIDENCE

The City Council of the City of Brisbane ordains as follows:

Section 1. Findings

- A. Having a loaded gun in a home is associated with an increased risk of gun-related injury and death. According to a report in the New England Journal of Medicine, residing in a home where a gun is kept increased an individual's risk of death by homicide significantly. A similar national study reached the same conclusion.
- B. Firearm injuries have a significant public health impact. According to a recent study, researchers estimate that gun related violence costs the American economy at least \$229 billion every year, including \$8.6 billion in direct expenses, such as those for emergency and medical care. In California alone, the direct costs of hospital use for firearm assault injuries was estimated in 2010 to be \$87.4 million, 85% of these costs were borne by taxpayers. It is reasonable to believe that in the intervening 11 years, those costs have continued to increase.
- C. Children are particularly at risk of injury and death from firearms when firearms are not safely secured in their own homes or in the homes they visit. According to national data, children and young adults constitute 38% of all firearm deaths and non-fatal injuries. More than 75% of guns used in suicide attempts and unintentional injuries of children and young adults were stored in the residence of the victim, a relative, or a friend. Nearly all of accidental shooting deaths among children occur in the home, and most of these deaths occur when children are playing with an unsecured loaded gun their parents' absence.
- D. Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner's 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. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.
- E. Local community action is needed to prevent gun violence. In San Mateo County, in the past 10 or so years, there have been more than 300 gun-related deaths. From information gathered at County gun "buy-back" events, a majority of persons turning in the guns report they have kept the gun hidden in a discrete location or kept the gun loaded, notwithstanding that these methods are not considered "safe storage". Many of

the persons who surrendered their guns did so for “safety reasons” and a majority of those who inherited a gun did not know how to store properly the gun.

- F. San Mateo County, many cities in San Mateo County, and many cities throughout the Bay Area have already adopted a Safe Storage of Firearms Ordinance, and such ordinances have not been challenged as infringing on any rights under the Second Amendment.

Section 2. A new Chapter 8.52 is added to the Brisbane Municipal Code as follows:

“Chapter 8.52 Safe Storage of Firearms.

Section 8.52.010 Definitions

- A. “Firearm” shall mean a firearm as defined in California Penal Code, section 16520.
- B. “Locked Container” shall mean a locked container as defined in California Penal Code, section 16850, listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices. A locked container does not include a bag or other container made of fabric or other penetrable material, such as a purse, backpack, or gym bag.
- C. “Residence” shall mean any structure intended or used for human habitation including but not limited to single family residences, apartments, condominiums, accessory dwelling units, rooms in boarding houses, hotels, motels, short term rentals, and recreational vehicles.
- D. “Trigger lock” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference either to the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under California Penal Code, section 23635.

Section 8.52.020 Safe Storage of Firearms in a Residence Required

Except when carried on a person, no person shall keep a Firearm in any Residence unless the Firearm is stored in a Locked Container or is disabled with a Trigger Lock.

Section 8.52.030 Penalty

- A. A violation of Section 8.52.020 shall be subject to enforcement as provided in Chapters 1.14 (Code Enforcement), 1.16 (Administrative Citations) or 1.18 (Administrative Compliance Orders).
- B. To encourage reporting of lost or stolen Firearms, a person who complies with California Penal Code, section 25250 by reporting the loss of theft of a Firearm that the person owns or possesses to a local law enforcement agency within five days from the time the

person knows or reasonably should have known that the Firearm had been lost or stolen shall not be subject to subsection A of this Section 8.52.020.”

Section 3. Effective Date

This Ordinance shall be in effect 30 days after its adoption.

Karen Cunningham, Mayor

Attest:

Ingrid Padilla, City Clerk

I hereby certify that the foregoing Ordinance was duly adopted and passed by the City Council of the City of Brisbane in a regular meeting held on July 15, 2021 by the following vote:

AYES:

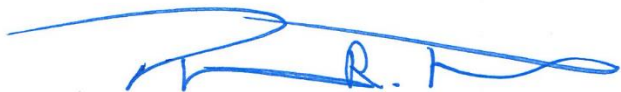
NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:

A handwritten signature in blue ink, appearing to read 'T. R. H.', is written over a horizontal line.

Thomas McMorrow, City Attorney