



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/20/2023

ITEM NO: 21

DATE: June 15, 2023
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 18, Article VII, "Weapons," of the Town Code Update the Town's Concealed Carry Firearm Licensing Ordinance and Prohibit the Carry of Firearms in Sensitive Places"

RECOMMENDATION:

Introduce an ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Town Code Chapter 18, Article VII, "Weapons," of the Town Code Update the Town's to Update the Concealed Carry Firearm Licensing Ordinance and Provisions and Prohibit Concealed the Carry of Firearms in Sensitive Places."

BACKGROUND:

State Penal Code Section 26155 authorizes local Chiefs of Police to issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person. Existing Town Code Sections 18.70.010 and following implement Penal Code Section 26155. Staff recommends amending Chapter 18 of the Town's Municipal Code to update the Town's concealed carry firearms licensing ordinance to conform with recent case law holding that a "good cause" requirement is unconstitutional. Staff also recommends amending Chapter 18 to prohibit the carrying of concealed firearms in "sensitive places" as authorized by recent case law.

On June 23, 2022, the U.S. Supreme Court decided the case of *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 ("*Bruen*"). In the *Bruen* decision, the Court held unconstitutional the State of New York's law requiring applicants to show "good cause" to obtain a license to carry a concealed weapon. The Court held that requiring applicants to demonstrate a "special need" for self-protection distinguishable from that of the general community violated the applicants' Second and Fourteenth Amendment rights.

Reviewed by: Town Manager and Chief of Police

BACKGROUND (continued):

The *Bruen* decision also held that certain locations are "'sensitive places' where arms carrying could be prohibited consistent with the Second Amendment." The Supreme Court expressed in *District of Columbia v. Heller*, and reaffirmed in *McDonald v. City of Chicago*, that "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" are "presumptively lawful." In *Bruen*, the Court named "legislative assemblies, polling places, and courthouses" as examples of "sensitive places" where weapons could be prohibited consistent with the Second Amendment.

In response to the *Bruen* decision, state legislation was introduced in 2022 that would, among other things, prohibit the known possession of firearms in an expansive list of sensitive locations, even with a valid concealed carry license. The 2022 bill, SB 918, included an urgency clause, which triggered a supermajority requirement. It failed by one vote on the last day of the 2022 legislative session. The bill, renamed SB 2, has been reintroduced for consideration in the 2023 legislative session. Based on the prior vote, staff believes it is likely to be enacted and go into effect on January 1, 2024.

At this time, in the absence of state or local legislation prohibiting firearms in specified sensitive locations, the carrying of firearms with a valid license is lawful in most public and private places in California. Police Chiefs and City Attorneys in Santa Clara County have been collaborating to develop firearms policies in accordance with Supreme Court guidance, and several cities have already enacted "sensitive places" ordinances. Staff recommends that the Town Council amend Chapter 18, Article VII, of the Town Code to prohibit concealed carry firearms in specified "sensitive places," which are defined as Town property, polling places, schools, public transit, and places of worship. Town property is in turn defined to mean Town government buildings, including but not limited to, the Civic Center Complex, the Police Operations Building, the Parks and Public Works Department offices, and the Library.

DISCUSSION:

The proposed ordinance would update the Town's ordinance addressing the issuance of concealed carry licenses and prohibit the carrying of firearms in certain "sensitive places" that have been explicitly authorized by the Supreme Court. The proposed ordinance:

- Sets forth the general requirements for obtaining a concealed carry firearms license and references state law and the concealed carry firearms licensing procedures adopted by the Chief of Police (Section 18.70.025)
- Provides definitions for terms used (Section 18.70.005)
- With limited exceptions, prohibits concealed carry firearms at "sensitive places" (Section 18.70.040 and 18.70.050)
- With limited exceptions, prohibits the sale of firearms on Town property (Section 18.70.040 and 18.70.060)

PAGE 3 OF 3

SUBJECT: Introduce Sensitive Places Ordinance

DATE: June 15, 2023

DISCUSSION (continued):

- Moves Sections prohibiting sales, possession, and use by minors and slingshots to the end of the Article.

CONCLUSION:

In response to the U.S. Supreme Court's recent decision in *New York State Rifle & Pistol Association v. Bruen*, staff recommends that Council adopt an ordinance to update the Town's concealed carry firearms licensing provisions, ban concealed carry firearms in an initial round of "sensitive places" where the Supreme Court has deemed such bans presumptively lawful, and make other minor changes.

If introduced, the proposed ordinance will return for adoption by the Town Council at its August 1st meeting and will take effect 30 days from the date of adoption.

COORDINATION:

This report was coordinated by the Town Attorney's Office, Town Manager's Office and the Police Department.

FISCAL IMPACT:

The Ordinance will not have a fiscal impact.

ENVIRONMENTAL ASSESSMENT:

Introduction of this Ordinance is not a project subject to CEQA, because it can be seen with certainty that it will not have an impact on the physical environment. (CEQA Guidelines Section 15378.)

Attachments:

1. Redline Proposed Ordinance Showing Changes
2. Proposed Ordinance