



**TO:** Mayor and Councilmembers

**FROM:** Megan Garibaldi, City Attorney

**SUBJECT:** Consideration of Ordinance to Require the Safe Storage of Firearms in a Residence

**RECOMMENDATION:**

Introduce and conduct first reading (by title only) and waive further reading of Ordinance No. 22-\_\_\_\_\_ entitled “An Ordinance of the City Council of the City of Goleta, California Adding Chapter 9.09 to Title 9 of the Goleta Municipal Code to Require the Safe Storage of Firearms in a Residence.”

**BACKGROUND:**

The Second Amendment protects an individual's right to bear arms in their own self-defense. Reasonable restrictions on that right are permissible so long as they are rooted in history. The safe storage of guns and regulation thereof has been present since this nation's founding.<sup>1</sup>

A loaded or unlocked gun in the home causes a dramatic increase in the likelihood of injury or death. An individual's likelihood to die by homicide increases between 40% and 170% when a weapon is kept in the home, according to a 2008 New England Journal of Medicine study. Another 2004 study found the risk of death by homicide increases by 90%. Regardless of studies or their differing methodology, the basic principle is that safety requirements ensure that weapons acquired pursuant to the Second Amendment right to self-defense are used consistent with that right. The Founders of this country never intended an unlimited right to bear arms, instead, they intended to guarantee the right to self-defense.

Recently, there has been a dramatic increase in instances of accidental or intentionally wrongful use of firearms in the United States. The Centers for Disease Control and Prevention report that in 2019, there were 39,707 firearm-related deaths in the United States.<sup>2</sup> Also, in 2019, firearms were used in 23,941 suicides in the United States.<sup>3</sup> A

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<sup>1</sup> Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights, Law and Contemporary Problems*, 80 Law & Contemp. Probs., no. 55, 2017, at 55.

<sup>2</sup> CDC website <https://www.cdc.gov/violenceprevention/firearms/fastfact.html>

<sup>3</sup> CDC website <https://www.cdc.gov/nchs/fastats/suicide.htm>

2017 Pew Research Center survey found that 42% of adults live in a gun-owning household.<sup>4</sup> Living in a home with guns increases the risk of death by homicide.<sup>5</sup> However, applying trigger locks or using lockboxes to store unsupervised firearms in the home can reduce firearm related violence and accidents. Keeping a firearm locked when it is not being carried prevents unauthorized users, including children, from accessing and using firearms which can reduce tragedies due to suicide, unintentional discharges, and firearm theft.

California law makes it a crime for a gun owner to store a loaded firearm in a home, or within an area of the owner's control, and do so when the owner knows, or should know, that a child could access it without a parent's permission. (California Penal Code, § 25100.) This means if an owner knows that a child can access a stored gun, the owner should: (1) make certain that it is unloaded, and (2) store it in a place outside of the child's access (like a locked container with a combination lock or a key lock). A violation of the above law is a misdemeanor offense. The crime is punishable by up to one year in county jail. This punishment will increase if a child accesses the weapon and causes harm, great bodily injury, or death. (*Ibid.*)

California law also makes it a criminal offense for a firearm owner to: (1) store a loaded gun in a home, or within an area of the owner's control, and do so when the owner knows, or should know, that a person prohibited from possessing a firearm under state law or federal law could access it. (*Ibid.*) This means if an owner knows that an adult who cannot possess a firearm can get to the stored weapon, the owner should: (1) make certain that it is unloaded, and (2) store it in a place outside of the adult's access (like in a locked container). A violation of the above law is charged as a misdemeanor. The crime is punishable by up to one year in county jail. This punishment increases if an adult accesses the weapon and causes harm, great bodily injury, or death. (*Ibid.*) In such cases, the crime can be charged as a felony and lead to custody in state prison for up to three years.

Goleta has unfortunately been one of the cities in California most affected by guns used outside of their Second Amendment purposes. On January 30, 2006, a former U.S. Postal Service employee shot and killed six people in Goleta, California before taking their own life. Prior thereto, that postal worker shot and killed a former neighbor in Santa Barbara. According to the National Gun Violence Memorial website, there have been 13 deaths in Goleta since the year 2000 related to gun violence. Several California jurisdictions have adopted "safe gun storage" ordinances to bolster firearm safety in the home. Consequently, Councilmember James Kyraico requested that staff evaluate and draft a Safe Gun Storage Ordinance. Mayor Perotte supported this request, and accordingly, staff prepared the draft ordinance presented herein.

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<sup>4</sup> Pew Research Center Website <https://www.pewresearch.org/social-trends/2017/06/22/americas-complex-relationship-with-guns/>

<sup>5</sup> Mother Jones, The True Cost of Gun Violence in America, by Mark Follman, Julia Lurie, Jaeah Lee, and James West <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>

## DISCUSSION:

The proposed Ordinance would require firearm owners to store their firearms in residences (subject to specified exemptions) in a locked container or to disable it with a trigger lock. For purposes of this ordinance:

- “Firearm” shall have the same meaning as this term is defined under California Penal Code section 16520.
- “Locked Container” shall have the same meaning as this term is defined under California Penal Code section 16850.
- “Trigger Lock” means a trigger lock, as defined in California Penal Code, Section 16850, and that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either 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.
- A “residence” is defined to mean any structure intended or used for human habitation, including but not limited to, houses, condominiums, dwelling units, rooms, accessory dwelling units, motels, hotels, single room occupancy units, , recreational vehicles, and other vehicles where human habitation occurs.

A firearm is not required to be in a locked container or disabled with a trigger lock in a residence, during the following exceptions: (1) when carried on the person; (2) during use for cleaning and maintenance; or (3) during use for lawful self-defense. A violation of the regulations of the proposed ordinance is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000.00), and also exposes violators to civil penalties pursuant to Goleta Municipal Code Chapter 1.02. (Administrative Citations) in the amounts provided in Section 1.02.080.

It is important to understand that the proposed ordinance in no way restricts the right to own a firearm in a residence in the City of Goleta. The proposed ordinance merely requires that the firearms be stored in a safe manner in order to reduce both intentional and accidental injury and/or death resulting from these firearms. Firearms can be safely stored in and quickly accessed from affordable, widely available lockboxes. Indeed, users report that they can retrieve a loaded firearm from a pushbutton lockbox in just two or three seconds and that locks are easy to open in the dark. Some lockboxes also feature biometric locks, which provide immediate access when they can scan the owner’s fingerprint.

The proposed ordinance is modeled after a similar San Francisco ordinance that was upheld by the Ninth Circuit Court of Appeals. In upholding San Francisco’s ordinance against a Second Amendment challenge, the Ninth Circuit recognized that unlike the District of Columbia law invalidated in *District of Columbia v. Heller* (2008) 554 U.S. 570, the San Francisco ordinance does not, “[p]revent law abiding citizens from using firearms to defend themselves in the home.” (*Jackson v. City and County of San Francisco* (2014) 746 F.3d 953, 964.) Rather, the ordinance regulates how San Franciscans must store their handguns when not carrying them on their persons. Retrieving a weapon from a locked safe or removing a trigger lock only indirectly burdens the ability to use a handgun because modern gun safes and trigger locks may be opened quickly in case of an emergency. (*Id.*)

Further, *Heller* explicitly stated that its analysis did not extend to “the invalidity of laws regulating the storage of firearms to prevent accidents.” (*Heller*, 554 U.S. at 632)

According to Giffords Law Center to Prevent Gun Violence, “safe storage” ordinances have been adopted by over forty jurisdictions in the state, including but not limited to, the City of Los Angeles, San Diego, Palm Springs, City and County of San Francisco, San Jose, and Oakland.<sup>6</sup>

### ENVIRONMENTAL ISSUES:

There are no anticipated environmental issues associated with this Ordinance. This ordinance is exempt from the California Environmental Quality Act (“CEQA”) as provided in Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3). The ordinance is enacted pursuant to the City’ police powers to mitigate activities that threaten the public health, safety, and welfare of City residents. Therefore, it can be seen with certainty that adopting this ordinance would not have a significant adverse effect on the environment under CEQA Guideline 15061(b)(3).

### FISCAL IMPACTS:

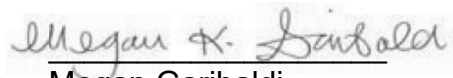
There is no direct fiscal impact from introducing and recommending adoption of the proposed Ordinance.

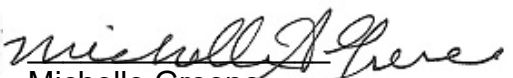
#### Reviewed By:

#### Legal Review By:

#### Approved By:

  
Kristine Schmidt  
Assistant City Manager

  
Megan Garibaldi  
City Attorney

  
Michelle Greene  
City Manager

### ATTACHMENTS:

1. Ordinance No. 22-\_\_\_\_\_ entitled “An Ordinance Adding Chapter 9.09 to Title 9 of the Goleta Municipal Code to Require the Safe Storage of Firearms in a Residence”

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<sup>6</sup> Giffords Law Center website, <https://giffords.org/lawcenter/report/communities-on-the-move-local-gun-safety-legislation-in-california/>

## **ATTACHMENT 1:**

Ordinance No. 22-\_\_\_\_\_ entitled "An Ordinance Adding Chapter 9.09 to Title 9 of the Goleta Municipal Code to Require the Safe Storage of Firearms in a Residence"

**ORDINANCE NO. 22-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
GOLETA, CALIFORNIA, ADDING CHAPTER 9.09 TO TITLE 9 OF  
THE GOLETA MUNICIPAL CODE TO REQUIRE THE SAFE  
STORAGE OF FIREARMS IN A RESIDENCE**

**WHEREAS**, the Centers for Disease Control and Prevention report that in 2020, there were 45,222 firearm-related deaths in the United States, which equates to approximately 124 deaths per day from a firearm-related injury. More than half of firearm-related deaths were by suicide. (CDC, *Firearm Violence Prevention*, available at: <https://www.cdc.gov/violenceprevention/firearms/fastfact.html>.)

**WHEREAS**, approximately 32% percent of U.S. adults report personally owning a gun, and 44% report living in a gun household. (Lydia Saad, GALLUP NEWS (Nov. 13, 2020), *What Percentage of Americans Own Guns?*, available at: <https://news.gallup.com/poll/264932/percentage-americans-own-guns.aspx>.)

**WHEREAS**, one-third of all households with children contained firearms, and 21% of those households' firearms were both loaded and unlocked, thereby leaving an estimated 4.6 million American children living in households with at least one unlocked and loaded firearm. (Matthew Miller and Deborah Azrael, JAMA Network Open 5, no. 2 (2022): e2148823, Research Letter, *Firearm Storage in US Households with Children: Findings from the 2021 National Firearm Survey*.)

**WHEREAS**, an estimated 54% of gun owners do not lock all of their guns, let alone store them unloaded, locked, and separate from ammunition. (Cassandra K. Crifasi et al., AMERICAN JOURNAL OF PUBLIC HEALTH 108, no. 4 (2018): 532–37, *Storage Practices of US Gun Owners in 2016*.)

**WHEREAS**, living in a home where guns are kept increases an individual's risk of death by homicide by between 40% and 170%. (Garen J. Wintemute, M.D., M.P.H., NEW ENGLAND JOURNAL OF MEDICINE (2008), *Guns, Fear, the Constitution, and the Public's Health*.)

**WHEREAS**, children in particular suffer elevated risk from unsafe gun storage. In 2020, guns were the leading cause of death amongst children and teens in the United States. (Johns Hopkins Bloomberg School of Public Health, CENTER FOR GUN VIOLENCE SOLUTIONS, *A Year in Review: 2020 Gun Deaths in the U.S.*, at p. 4 (April 28, 2022) ["Guns were the leading cause of death among children and teens in 2020, accounting for more deaths than COVID-19, car crashes, or cancers."].) Fifty percent of firearm-related deaths among children occur at the home of the victim, and 40% occur at the home of a friend or relative. (Stanford Medicine Children's Health (citing the National SAFE KIDS Campaign statistics), *Firearms--Injury Statistics and Incidence Rates*.)

**WHEREAS**, unsecured guns may be used as part of suicide attempts or are involved in accidental death or injury and contribute to gun violence at schools. On average, once per day of a child under the age of 18 unintentionally shoots him/herself or someone else, and 70% of those incidents take place inside a home. (Everytown for Gun Safety Support Fund (August 30, 2021), *Preventable Tragedies: Findings from the #NotAnAccident Index*, available at: <https://everytownresearch.org/report/notanaccident/>.) Further, access to lethal means, like firearms, greatly increases the risk that a suicide attempt will result in death. Guns are used in suicides twice as often as the second most common method of suicide; 53% of all suicides are by firearm. (Johns Hopkins, *A Year in Review: 2020 Gun Deaths in the U.S.*, *supra*, at p. 12.) In the case of children committing suicide by gun, most often use guns belonging to a family member. (Renee M. Johnson et al., *SUICIDE & LIFE-THREATENING BEHAVIOR* 40, no. 6 (2010): 609–11, *Who Are the Owners of Firearms Used in Adolescent Suicides?*.) In incidents of gun violence on school grounds, up to 80% of shooters under the age of 18 obtained their guns from their own home, a relative's home, or from friend. (Everytown for Gun Safety Support Fund (Feb. 2020), *Keeping Our Schools Safe: A Plan for Preventing Mass Shootings and Ending All Gun Violence in American Schools*, available at: <https://everytownresearch.org/school-safety-plan>.)

**WHEREAS**, the California State Attorney General further maintains a variety of resources on the Office of the Attorney General website related to education and guidance on safe gun storage.

**WHEREAS**, several studies have concluded that safe storage measures have a demonstrated protective effect in homes with children and teenagers where firearms are stored. (See, e.g., David C. Grossman et al., *JAMA Network* 293, no. 6 (2005): 707–14, *Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries*.)

**WHEREAS**, requiring firearms to be stored with trigger locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home. The locking requirements apply only to firearms that are not being lawfully carried and allow gun owners to carry loaded and unlocked firearms in the residence at any time.

**WHEREAS**, firearms can be safely stored in and quickly accessed from affordable, widely available lockboxes. Indeed, users report that they can retrieve a loaded firearm from a pushbutton lockbox in two to three seconds and that locks are easy to open in the dark. Some lockboxes also feature biometric locks, which provide immediate access when they can scan the owner's fingerprint.

**WHEREAS**, applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death, particularly as it relates to children. 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 reasonable measure can significantly decrease the risk that a gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally.

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

**SECTION 1. Recitals**

The City Council hereby finds and determines that the foregoing recitals are true and correct, and thus incorporates them herein by this reference.

**SECTION 2. Findings**

- A. The Second Amendment guarantees an individual right to keep and bear arms but allows limitation of that right subject to reasonable restrictions. (*District of Columbia v. Heller*, 554 U.S. 570, 595 (2008).) Any reasonable restriction imposed upon the Second Amendment right must be “consistent with the Nation’s historical tradition of firearm regulation.” (*New York State Rifle & Pistol Ass’n v. Bruen*, No. 22-843 (U.S. Supreme Court, June 2022).)
- B. Unsecured guns increase the likelihood of accidental injury and death, and such injury and death is unrelated to the right which the Supreme Court has held the Second Amendment was designed to protect: the possession and use of a firearm for traditionally lawful purposes, including specifically, self-defense. (*Heller, supra*, 554 U.S. at 599 [self-defense was the central component of the right itself].)
- C. The Supreme Court has previously stated that safe gun storage laws are one such reasonable restriction. (*Heller, supra*, 554 U.S. at 632 [“Nor, correspondingly, does our analysis suggest the invalidity of laws regulating the storage of firearms to prevent accidents”].)
- D. Laws relating to safe gun storage existed at the time of this nation’s founding and were necessary to prevent unintentional harms relating to improper storage. (See, e.g., Boston, Massachusetts, Secretary of the Commonwealth, Chapter 0046, “An Act in Addition to the Several Acts Already Made for the Prudent Storage of Gun-Powder Within the Town of Boston.” (1783))
- E. This Ordinance is therefore reasonable as it is intended to protect the public health and safety—including in particular as it relates to children, teenagers, and young adults who are acutely subject to the risks of gun accidents and suicide by firearm—by providing for the safe storage of guns in the home. The regulation contained herein further does not impinge upon on an individual’s right to keep and bear arms because, amongst other things, it only limits access to others in the home to that weapon when it is not being carried, and because it has a historical basis in the nation’s regulation of firearms, which imposed similar burdens on gun ownership to that of this Ordinance.



- F. The City Council does hereby find that safe gun storage significantly decreases the risk that a gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally, while preserving the Second Amendment right to self-defense.

### **SECTION 3. Chapter 9.09 of Title 9 of the Goleta Municipal Code**

A new Chapter 9.09 is hereby added to Title 9 of the Goleta Municipal Code to be numbered and entitled, and to be read in its entirety, as follows:

#### **9.09.010 - Application of Chapter.**

The provisions of this Chapter shall apply within the City of Goleta.

#### **9.09.020 - Definitions**

(a) For the purpose of this Chapter, "Firearm" means a firearm as defined in California Penal Code, Section 16520 or as amended,

(b) "Locked Container" means a locked container that is either (1) a locked container, as defined in California Penal Code, Section 16850, and listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices, or (2) approved in writing by the California Department of Justice Bureau of Firearms as having equivalent effect to other approved devices. For purposes of this chapter, a Locked Container does not include a bag or other container made of fabric or other penetrable material, such as a regular purse, backpack, or gym bag.

(c) "Residence" means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, accessory dwelling units, motels, hotels, SRO's, time shares, recreational vehicles, and other vehicles where human habitation occurs.

(d) "Trigger lock" means a trigger lock that is either (1) listed on the California Department of Justice's roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either 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 Penal Code section 23635, or (2) approved in writing by the California Department of Justice Bureau of Firearms as having equivalent effect to other approved devices and is the appropriate make and model for the firearm the lock will be used on.

#### **9.09.030 - Safe storage of firearms in a residence required**

(a) 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, except when:

(i) when the Firearm is carried upon the person who owns the Firearm.

(ii) when cleaning or maintaining the Firearm.

(iii) when using the Firearm for lawful self-defense.

(b) To encourage reporting of lost or stolen Firearms, a person who complies with California Penal Code section 25250 by reporting the loss or theft of a Firearm they own or possess to a local law enforcement agency within five days from the time they knew or reasonably should have known the Firearm had been lost or stolen shall not be prosecuted for violation of subsection (a).

#### **9.09.040 - Penalty**

(a) A violation of this section shall be subject to enforcement through criminal prosecution and/or civil penalties, as provided herein.

(b) Violation a Misdemeanor. A person who violates this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000.00).

(c) Civil Penalties. Additionally, the City may assess civil penalties pursuant to Goleta Municipal Code Chapter 1.02. (Administrative Citations) in the amounts provided in Section 1.02.080.

(d) Each violation shall be deemed a distinct and separate offense.

#### **SECTION 4. Environmental Review.**

The City Council finds this ordinance is exempt from the California Environmental Quality Act ("CEQA") as provided in Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3). The ordinance is enacted pursuant to the City' police powers to mitigate activities that threaten the public health, safety, and welfare of City residents. Therefore, it can be seen with certainty that adopting this ordinance would not have a significant adverse effect on the environment under CEQA Guideline 15061(b)(3).

#### **SECTION 5. Severability**

If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 6. Codification**

The City Clerk shall cause these amendments to be appropriately renumbered and codified in Title 9 of the Goleta Municipal Code on the effective date of this Ordinance.

**SECTION 7. Effective Date.**

This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 8. Certification**

The City Clerk shall certify to the passage and adoption of this Ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

**INTRODUCED ON** the \_\_th day of \_\_\_\_\_, 2022.

**PASSED, APPROVED, AND ADOPTED** this \_\_th day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
PAULA PEROTTE  
MAYOR

**ATTEST:**

\_\_\_\_\_  
DEBORAH S. LOPEZ  
CITY CLERK

**APPROVED AS TO FORM:**

\_\_\_\_\_  
MEGAN GARIBALDI  
CITY ATTORNEY

STATE OF CALIFORNIA                    )  
COUNTY OF SANTA BARBARA ) ss.  
CITY OF GOLETA                        )

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 22-\_\_ was introduced on \_\_\_\_\_, 2022, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the \_\_th of \_\_\_\_\_, 2022, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

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DEBORAH S. LOPEZ  
CITY CLERK