

DRAFT ORDINANCE NO. 17-

**AN ORDINANCE OF THE CITY OF CUPERTINO
AMENDING CHAPTER 10.76 (FIREARMS) OF THE
CUPERTINO MUNICIPAL CODE TO ADD GUN SAFETY
MEASURES**

WHEREAS, the City of Cupertino finds that the violence and harm caused by and resulting from both the intentional and accidental misuse of guns constitutes a clear and present danger to the populace, and find that sensible gun safety measures provide some relief from that danger and are of benefit to the entire community; and

WHEREAS, the City of Cupertino finds that laws that provide for safe storage of guns in homes, that require a gun owner to report a stolen or lost gun, that prohibit the possession of ammunition magazines capable of holding more than ten rounds unless circumstances warrant such possession, and that require record-keeping relating to the sale of ammunition constitute sensible gun safety regulations because they are not unduly burdensome for gun owners, they aid law enforcement officers in their duties, and they offer some protection to all members of the community.

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

Chapter 10.76 (formerly known as “Firearms Permit”) shall hereby be known as Chapter 10.76 (Firearms) of Title 10 (Public Peace, Safety or Morals) of Cupertino Municipal Code and is revised as follows:

10.76.010. Permit required.

No person shall shoot or discharge any gun, pistol or other firearms or any air-gun or pistol or spring-gun or pistol, not in necessary self-defense or in the performance of official duty, without first having obtained a written permit from the Chief of Police or other officer designated by him. The Chief of Police shall issue a permit to shoot or discharge any such gun, pistol or firearm only when he or she finds that the proposed use thereof will not endanger life or property. The Chief of Police may issue such written permit subject to such reasonable conditions as he finds will reduce or eliminate hazard to life or property. It is unlawful for any person to shoot or discharge any such gun, pistol or firearm contrary to the provisions of this section or contrary to the conditions of such written permit.

10.76.020. Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Santa Clara County Sheriff’s West Valley Patrol Division within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the City of Cupertino; or (2) the theft or loss of the firearm occurs in the City of Cupertino.

10.76.030. Safe storage of firearms.

Except when lawfully carried on his or her person, or in his or her immediate control and possession, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence owned or controlled by that person unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice’s list of approved firearms safety devices. As used in this part, “locked container” means a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. The term “locked container” does not include the utility or glove compartment of a motor vehicle. (as defined in Penal Code Section 16850 or as amended).

10.76.040. Possession of large-capacity ammunition magazines prohibited.

(a) No person may possess a large-capacity magazine in the City of Cupertino whether assembled or disassembled. For purposes of this section, “large-capacity magazine” means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or
- (2) A .22 caliber tubular ammunition feeding device; or
- (3) A tubular magazine that is contained in a lever-action firearm.

(b) Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:

- (1) Remove the large-capacity magazine from the City of Cupertino; or
- (2) Surrender the large-capacity magazine to the Santa Clara County Sheriff’s West Valley Patrol Division for destruction; or
- (3) Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 32310.

(c) This section shall not apply to the following:

- (1) Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
- (2) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
- (3) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;
- (4) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity’s armored vehicle business;
- (5) Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large-capacity magazine is in accordance with that license or permit;
- (6) A licensed gunsmith for purposes of maintenance, repair or modification of

the large-capacity magazine;

- (7) Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;
- (8) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 rounds or fewer of ammunition is compatible with the firearm and the person possesses the large-capacity magazine solely for use with that firearm.
- (9) Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California Penal Code.

10.76.050. Ammunition Sales.

(a) It is unlawful for any person to engage in the business of selling, leasing, or otherwise transferring firearm ammunition within the City of Cupertino except in compliance with this code.

(b) Definitions:

- (1) "Ammunition" means any cartridge or encasement containing a bullet or projectile, propellant, or explosive charge, and a primer which is used in the operation of a firearm.
- (2) "Ammunition vendor" means any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition.
- (3) "Person" means a natural person, association, partnership, firm, corporation, or other entity.

(c) Every ammunition vendor shall maintain an ammunition sales log which records all ammunition sales made by the vendor. The transferee shall provide, and the ammunition vendor shall record on the ammunition sales log, at the time of sale, all of the following information for each sale of firearms ammunition:

- (1) The name, address, and date of birth of the transferee;
- (2) The date of the sale;
- (3) The transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;
- (4) The brand, type, and quantity of firearms ammunition transferred;
- (5) The identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;
- (6) The transferee's signature and right thumbprint.

(d) The ammunition sales log shall be recorded on a form approved by the Chief of Police. All ammunition sales logs shall be kept at the location of the firearms ammunition sale for a period of not less than two years from the date of the sale. Ammunition sales logs shall be open to reasonable inspection by peace officers (as defined in Penal Code Section 830.1 or as amended) at all times the ammunition vendor is regularly open for business.

(e) No person shall knowingly provide false, inaccurate, or incomplete information to an ammunition vendor for the purpose of purchasing firearms ammunition. No ammunition vendor shall knowingly make a false, inaccurate, or incomplete entry in any ammunition sales log, nor shall any ammunition vendor refuse any reasonable inspection of an ammunition sales log subject to inspection.

10.76.060. Violation—Penalty.

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Chapter 1.12.

Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Cupertino hereby declares that they would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Posting and Publication.

The City Clerk is directed to cause this ordinance to be posted and published in the manner required by law.

This ordinance was introduced by Resolution No. 17- by the City Council of the City of Cupertino at the regular meeting of the City Council, held on the ___ day of ____, 2017 by the following vote:

Vote Members of the City Council

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor