

Agenda Item #8
Materials submitted by Council
Member Weinberg

The California Penal Code is deficient in two ways:

1. It does not define what "safe storage" means when it mandates guns be stored safely. This has led to numerous deaths where a parent believes the gun may be safe (in a closet or on top of a refrigerator, under a mattress or even in a purse) but it is clearly not safe. True safe storage is where the firearm is stored in a DOJ-approved locked container or disabled with a trigger lock.
2. It does not apply to all homes, only homes where children live or where "a child is likely to gain access to the firearm" which is too vague. Firearms in all homes should be securely stored in a locked container or disabled with a locking device.

California Penal Code 25100

Search Phrase:

CODE TEXT

PENAL CODE - PEN

PART 6. CONTROL OF DEADLY WEAPONS [16000 - 34370]

(Part 6 added by Stats. 2010, Ch. 711, Sec. 6.)

TITLE 4. FIREARMS [23500 - 34370]

(Title 4 added by Stats. 2010, Ch. 711, Sec. 6.)

DIVISION 4. STORAGE OF FIREARMS [25000 - 25225]

(Division 4 added by Stats. 2010, Ch. 711, Sec. 6.)

CHAPTER 2. Criminal Storage of Firearm [25100 - 25140]

(Chapter 2 added by Stats. 2010, Ch. 711, Sec. 6.)

25100.

(a) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the first degree" if all of the following conditions are satisfied:

- (1) The person keeps any firearm within any premises that are under the person's custody or control.
- (2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.
- (3) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes death or great bodily injury to themselves or any other person.

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(b) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the second degree" if all of the following conditions are satisfied:

(1) The person keeps any firearm within any premises that are under the person's custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.

(3) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of Section 417, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes injury, other than great bodily injury, to themselves or any other person, or carries the firearm either to a public place or in violation of Section 417.

(c) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the third degree" if the person keeps any firearm within any premises that are under the person's custody or control and negligently stores or leaves a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, unless reasonable action is taken by the person to secure the firearm against access by the child.

(Amended by Stats. 2019, Ch. 840, Sec. 6. (SB 172) Effective January 1, 2020.)

Search Phrase:

25105.

Section 25100 does not apply whenever any of the following occurs:

(a) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(b) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.

(c) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.

(d) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

(e) The person is a peace officer or a member of the Armed Forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

(f) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.

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(g) The person who keeps a firearm on premises that are under the person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

(Amended by Stats. 2019, Ch. 840, Sec. 7. (SB 172) Effective January 1, 2020.)

Search Phrase:

25110.

(a) Criminal storage of a firearm in the first degree is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) Criminal storage of a firearm in the second degree is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) Criminal storage of a firearm in the third degree is punishable as a misdemeanor.

(Amended by Stats. 2013, Ch. 730, Sec. 2. (AB 231) Effective January 1, 2014.)

25115.

If a person who allegedly violated Section 25100 is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated Section 25100 when deciding whether to prosecute the alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This section shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute an alleged violation of Section 25100.

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)

25120.

(a) If a person who allegedly violated Section 25100 is the parent or guardian of a child who was injured or who died as the result of an accidental shooting, no arrest of the person for the alleged violation of Section 25100 shall occur until at least seven days after the date upon which the accidental shooting occurred.

(b) In addition to the limitation stated in subdivision (a), before arresting a person for a violation of Section 25100, a law enforcement officer shall consider the health status of a child who suffered great bodily injury as the result of an accidental

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shooting, if the person to be arrested is the parent or guardian of the injured child. The intent of this section is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)

25125.

(a) The fact that a person who allegedly violated Section 25100 attended a firearm safety training course prior to the purchase of the firearm that was obtained by a child in violation of Section 25100 shall be considered a mitigating factor by a district attorney when deciding whether to prosecute the alleged violation.

(b) In any action or trial commenced under Section 25100, the fact that the person who allegedly violated Section 25100 attended a firearm safety training course prior to the purchase of the firearm that was obtained by a child in violation of Section 25100 is admissible.

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)

25135.

(a) A person who is 18 years of age or older, and who is the owner, lessee, renter, or other legal occupant of a residence, who owns a firearm and who knows or has reason to know that another person also residing therein is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm shall not keep in that residence any firearm that he or she owns unless one of the following applies:

(1) The firearm is maintained within a locked container.

(2) The firearm is disabled by a firearm safety device.

(3) The firearm is maintained within a locked gun safe.

(4) The firearm is maintained within a locked trunk.

(5) The firearm is locked with a locking device as described in Section 16860, which has rendered the firearm inoperable.

(6) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.

(b) A violation of this section is a misdemeanor.

(c) The provisions of this section are cumulative, and do not restrict the application of any other law. However, an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.

(Added by Stats. 2013, Ch. 737, Sec. 7. (AB 500) Effective January 1, 2014.)

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25140.

(a) Except as otherwise provided in subdivision (b), a person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or lock the handgun in a locked toolbox or utility box.

(b) A peace officer, when leaving a handgun in an unattended vehicle not equipped with a trunk, may, if unable to otherwise comply with subdivision (a), lock the handgun out of plain view within the center utility console of that motor vehicle with a padlock, keylock, combination lock, or other similar locking device.

(c) A violation of subdivision (a) is an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(d) (1) As used in this section, the following definitions shall apply:

(A) "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.

(B) "Locked toolbox or utility box" means a fully enclosed container that is permanently affixed to the bed of a pickup truck or vehicle that does not contain a trunk, and is locked by a padlock, keylock, combination lock, or other similar locking device.

(C) "Peace officer" means a sworn officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or a sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer's duties, while that officer is on duty or off duty.

(D) "Trunk" means the fully enclosed and locked main storage or luggage compartment of a vehicle that is not accessible from the passenger compartment. A trunk does not include the rear of a hatchback, station wagon, or sport utility vehicle, any compartment which has a window, or a toolbox or utility box attached to the bed of a pickup truck.

(E) "Vehicle" has the same meaning as specified in Section 670 of the Vehicle Code.

(2) For purposes of this section, a vehicle is unattended when a person who is lawfully carrying or transporting a handgun in a vehicle is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

(3) For purposes of this section, plain view includes any area of the vehicle that is visible by peering through the windows of the vehicle, including windows that are tinted, with or without illumination.

(e) This section does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of his or her official duties.

(f) This section does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before September 26, 2016.

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(Amended by Stats. 2018, Ch. 94, Sec. 1. (SB 1382) Effective January 1, 2019.)

Safe Storage Ordinance Towns and Cities in California

SF/Marin

- Belvedere
- Tiburon
- San Francisco

East Bay

- Berkeley
- Oakland
- Orinda
- Moraga
- Dublin
- Alameda

San Mateo County

- Redwood City
- San Carlos
- Millbrae
- San Mateo County (for unincorporated cities)
- Hillsborough
- Burlingame
- Belmont
- City of San Mateo
- Portola Valley
- Foster City
- Colma
- San Bruno
- South SF

Santa Clara County

- Morgan Hill
- Sunnyvale
- San Jose
- Santa Clara County (for unincorporated cities)
- Saratoga
- Palo Alto- ordinance is being drafted
- Los Altos Hills- ordinance is being drafted

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Santa Cruz County

- Santa Cruz

Los Angeles

- City of Los Angeles
- San Marino
- Culver City
- Cudahy

Riverside County

- Palm Springs

San Diego County

- City of San Diego
- Encinitas
- Solana
- Del Mar



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RESPONSIBLE STORAGE

WHEREAS, unsecured guns may increase the likelihood of crime and violence through an increased risk of gun theft;

WHEREAS, each year, an estimated 200,000 to 500,000 guns are stolen, and many are funneled into the underground market;

WHEREAS, access to unsecured firearms contributes to gun violence among children and teens;

WHEREAS, despite the safety risks, the majority of gun owners do not secure all of their firearms;

WHEREAS, contrary to popular belief, locking devices do not prevent owners from readily accessing their firearms;

WHEREAS, we are all safer when guns are stored unloaded, locked and separate from ammunition.

Sec. 1.

(a) As used in this section:

- (1) “Firearm” means [state code reference].
- (2) “Locked container” means a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. “Locked container” shall not include the utility or glove compartment of a motor vehicle.
- (3) “Locking device” means a trigger lock or other designed to prevent a firearm from functioning and, when applied to the firearm, renders the firearm inoperable.
- (4) “Unloaded” means without a cartridge
 - (i) in the chamber of the firearm;
 - (ii) in the cylinder of the firearm, if the firearm is a revolver; or
 - (iii) in the magazine of the firearm, if any part of the magazine is in or affixed to the firearm.

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(b) It shall be an offense for a person to store or keep any firearm on any premises unless the firearm is:

- (1) Unloaded and in a locked container, or unloaded and affixed with a locking device; or
- (2) carried on the person, or is otherwise in the immediate possession, of an individual in accordance with all applicable laws.

(c) Subsection (b) shall not apply to:

- (1) A firearm stored or kept on premises owned by or under the control of a law enforcement agency.
- (2) A firearm stored or kept on the business premise of federally licensed firearms dealer.

(d) A violation of subsection (b) is punishable by a fine not exceeding \$1,000.



VERSION: FEB 18, 2021 (CURRENT)



MORGAN HILL, CALIFORNIA modified

SUPPLEMENT HISTORY TABLE modified

- > Title 1 - GENERAL PROVISIONS
- > Title 2 - ADMINISTRATION AND PERSONNEL
- > Title 3 - REVENUE AND FINANCE
- > Title 5 - BUSINESS LICENSES GENERALLY
- > Title 6 - ANIMALS
- > Title 8 - HEALTH AND SAFETY
- ▼ Title 9 - PUBLIC PEACE, MORALS AND WELFARE
 - ▼ Chapter 9.04 - WEAPONS
 - 9.04.010 - Discharge—Permit required—Fee.
 - 9.04.020 - Licensed dealers—Posting of regulations.
 - 9.04.030 - Duty to report theft or loss of firearms.

9.04.030 - 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 Morgan Hill Police Department within forty-eight 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 Morgan Hill; or (2) the theft or loss of the firearm occurs in the city of Morgan Hill.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

9.04.040 - Safe storage of firearms.



No person shall leave a firearm (as defined in Penal Code Section 16520 or as amended) unattended in any residence owned or controlled by that person unless the firearm is stored in a locked container (as defined in Penal Code Section 16850 or as amended), 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.

(Ord. No. 2289 N.S., § 1, 11-28-2018)

9.04.050 - Possession of large-capacity ammunition magazines prohibited.



A. No person may possess a large-capacity magazine in the city of Morgan Hill 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 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 rounds; or



VERSION: FEB 25, 2021 (CURRENT)

- > Division B13 - OFFENSES— MISCELLANEOUS
- > Division B14 - PARKS AND RECREATION
- > Division B15 - PRIVATE PATROLS
- > Division B16 - SPECIAL SALES
- > Division B17 - STREETS AND HIGHWAYS
- > Division B18 - SWIMMING POOLS
- ▼ Division B19 - FIREARMS
 - > CHAPTER I. - FIREARMS LICENSES
 - > CHAPTER II. - REGULATION OF FIREARMS AND AMMUNITION ON COUNTY PROPERTY

CHAPTER III. - SAFE STORAGE OF FIREARMS

Sec. B19-16. - Definitions.

Sec. B19-17. - Prohibition on keeping firearms in a residence unless in locked container, disabled with a trigger lock, carried by an authorized

hold a valid hunting license from the state Department of Fish and Wildlife is present. A "seasonal hunting lodge" for the purposes of the previous sentence must be lawfully used for temporary human habitation, used by a given individual less than 90 days in a calendar year, and not located in an Urban Residential, Commercial, or Industrial District as defined by the Zoning Ordinance.

(e) *Trigger lock* means a trigger lock 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 Penal Code section 23655(d).

([Ord. No. NS-644, § 1, 12-10-19, eff. 3-9-20](#))

Sec. B19-17. - Prohibition on keeping firearms in a residence unless in locked container, disabled with a trigger lock, carried by an authorized user, or in immediate control or possession of an authorized user.



(a) Except when carried on the person of an individual in accordance with all applicable laws or when in the close proximity and control of a person who is authorized to carry a firearm in accordance with all applicable laws, in the unincorporated area of the County no person shall keep a firearm in any residence unless the firearm is stored in a locked container or the firearm is disabled with a trigger lock. This provision does not apply to the storage or use of a firearm outside of a residence.

(b) Each day that a firearm is improperly stored shall constitute a separate violation of this Section.

(c) The first violation of this Section shall be an infraction punishable by a fine not to exceed \$500.00.

(d) All additional violations of this Section beyond the first violation shall constitute an infraction punishable by a fine not to exceed \$1,000.00.

([Ord. No. NS-644, § 1, 12-10-19, eff. 3-9-20](#))



VERSION: JAN 28, 2021 (CURRENT)



CODE OF THE CITY OF SARATOGA

SUPPLEMENT HISTORY TABLE

Chapter 1 - GENERAL PROVISIONS

Chapter 2 - ADMINISTRATION

Chapter 3 - CODE ENFORCEMENT

Chapter 4 - BUSINESS REGULATIONS

Chapter 5 - TAXATION

Chapter 6 - PUBLIC SAFETY

Article 6-05 - CIVIL

Article 6-10 - ALARM SYSTEMS

Article 6-15 - MISCELLANEOUS OFFENSES

Article 6-20 - CURFEW REGULATIONS AND OFFENSES AFFECTING MINORS

Article 6-25 - LOCKING MAILBOXES

Article 6-30 - MARIJUANA

Article 6-35 - FIREARMS

proceedings authorized in [Section 15-95.020](#) of the this Code. Nothing in this Section shall prevent the criminal enforcement of other violations of this Code or state law.

(Ord. No. 349, § 1(Att. A), 6-7-2017; Ord. No. 354, § 1(Exh. A), 12-20-2017)

Article 6-35 - FIREARMS



6-35.010 - Storage of firearms in a residence.



Except when carried on his or her person, or in his or her immediate control and possession, no person shall keep a firearm (as defined in California Penal Code 16520 or as amended) in any residence in Saratoga owned or controlled by that person unless the firearm is stored in a locked container (as defined in California Penal Code 16850 or as amended) or the firearm is disabled with a safety device that is listed on the California Department of Justice's roster of approved firearm safety devices.

(Ord. No. 358, § 1(Att. A), 11-21-2018)

6-35.020 - Violations.



The violation of any provision contained in this Article is hereby declared to be unlawful and shall constitute an infraction, subject to the penalties as prescribed in [Chapter 3](#) of this Code. In order to encourage reports to law enforcement agencies of lost or stolen firearms, a person who files a report with a law enforcement agency notifying the agency that a firearm has been lost or stolen shall not be subject to any code enforcement proceeding for any alleged violation of [section 6-35.010](#) above.

(Ord. No. 358, § 1(Att. A), 11-21-2018)

Sunnyvale Municipal Code

Sunnyvale, California



Sunnyvale

Current through Ordinance 3170-20 and the December 2020 code supplement. For more recent amendments to this code, refer to

Sunnyvale Municipal Code

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[Title 9. PUBLIC PEACE, SAFETY OR WELFARE](#)
[Chapter 9.44. FIREARMS](#)

9.44.040. Safe storage of firearms.

Except when 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. (Ord. 3027-13 § 1).

View the [mobile version](#).