

ORDINANCE NO. NS-644

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
ADDING CHAPTER III TO DIVISION B19 OF THE COUNTY OF SANTA
CLARA ORDINANCE CODE RELATING TO THE SAFE STORAGE OF
FIREARMS IN UNINCORPORATED AREAS OF THE COUNTY**

Summary

This Ordinance requires persons keeping firearms in residences in the unincorporated area of the County to either have the firearms on their person, in their close proximity and control, disabled with a trigger lock, or in a locked container.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
FINDS AS FOLLOWS:**

- (a) Firearm fatalities and injuries are of epidemic proportions in Santa Clara County and across the country, and that unsecured weapons in the home pose a threat to public health and safety:
 - (1) According to statistics from the County of Santa Clara Public Health Department, in 2016, 11 percent of injury deaths within the County were due to firearms.
 - (2) According to the United States Centers for Disease Control and Prevention, in 2017, in the United States 39,773 people lost their lives in firearm-related incidents including homicides, suicides, and unintentional shootings. Of those deaths, 23,854 (60%) were due to suicide, and 486 were due to accidental discharge of weapons.
 - (3) According to a study published in the New England Journal of Medicine, in 2016, firearms were the second-highest cause of death among youth aged 1 to 19. The rate of firearm deaths among youth in the United States is more than 35 times higher than the rate in other high-income countries.
 - (4) According to the United States Centers for Disease Control and Prevention, from 2013 to 2017, on average more than 1,000 children and teens in the United States committed suicide using firearms annually.

- (5) Studies have found that the vast majority of guns used in youth suicides, unintentional shootings among minors, and school shootings perpetrated by minors are acquired from the minor's home, or the homes of relatives or friends.
- (6) When firearms are left unsecured in homes, children are at risk of injury or death:
- i. In January 2019 in San José, California, a 15-year-old was fatally shot by a 14-year-old after the teenagers got ahold of two handguns that belonged to the grandfather of a friend.
 - ii. In April 2019 in Fallbrook, California, a 12-year-old shot his 12-year old cousin in the shoulder after the children came across his uncle's gun.
 - iii. In March 2019 in Miami Gardens, Florida, a 6-year-old fatally shot himself after coming across an unsecured firearm in his grandmother's home.
 - iv. In December 2018 in Madera, California, a 5-year-old shot a 9-year-old in the back with an unsecured rifle at a family gathering.
 - v. In June 2018 in Yakima, Washington, a 14-year-old shot his 14-year-old friend in the chest after the boys found an unsecured firearm in the shooter's home.
 - vi. In February 2018 in Los Angeles, California, a 12-year-old brought a gun to school and injured four classmates after accidentally discharging the gun.
 - vii. In January 2018 in Benton, Kentucky, a 15-year-old student opened fire on classmates, killing 2 and injuring 14 others, with a firearm he had found unsecured in his stepfather's closet.
 - viii. In August 2017 in Syracuse, New York, an 9-year-old fatally shot his 8-year-old brother after finding their father's unsecured gun.
 - ix. In July 2017 in Oakland, California, a 17-year-old boy visiting a relative's home fatally shot himself in the head while playing with an unsecured handgun.

- x. In July 2016 in Lemoore, California, a 3-year-old who was visiting an apartment with her family fatally shot herself in the head after coming across an unsecured gun.
 - xi. In January 2016 in Kokhanok, Alaska, an 11-year-old accidentally shot and killed a 5-year-old after finding an unsecured rifle.
 - xii. In May 2015 in Gilroy, California, a 13-year-old accidentally shot herself in the leg with her stepfather's gun.
 - xiii. In May 2015 in Perris, California, a 14-year-old accidentally shot and killed his 9-year-old brother after the boys came across their stepfather's unsecured handgun.
 - xiv. In March 2014 in Nuevo, California, a 5-year-old fatally shot himself after finding an unsecured firearm in his home.
 - xv. In January 2013 in Taft, California, a 16-year-old opened fire on his classmates, critically injuring one, after gaining access to his older brother's firearm.
- (7) Studies have found that the risk for suicide increases when firearms are kept loaded and/or unlocked.
- (8) According to the FBI, over half of female victims of intimate partner homicide in the United States are killed with a gun. And, also according to FBI data, gun-related domestic killings increased by 26% from 2010 to 2017. Safely storing weapons may decrease the chances of a domestic dispute culminating in firearm related injury or death.
- (9) There is a wide consensus among medical professionals, police chiefs, *and* gun rights advocates that applying trigger locks or using lock boxes to store unsupervised firearms in the home promotes health and safety:
- i. The International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms.

- ii. The American Academy of Pediatrics recommends that if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition.
 - iii. The National Rifle Association, the nation's leading gun rights advocacy organization, advises on its "NRA Family" website that gun owners "[s]tore guns so they are inaccessible to unauthorized persons. What does this really mean? It means you need to take all possible steps to make sure that only you and trusted family members are able to get to your firearm."
- (10) Keeping unsecured firearms in the home increases the flow of illegal guns into the community. According to the Center for American Progress, hundreds of thousands of firearms are stolen each year in the United States and many are subsequently sold illegally. The Center recommends that gun owners store firearms securely to help protect against theft.
- (b) While government at all levels has an important, substantial, and compelling interest in protecting the public from firearm-related injuries and death, local governments are the entities primarily responsible for the protection of public health, safety, and welfare in their communities. The Board of Supervisors, therefore, has a responsibility to ensure that it protects public health and safety.
- (1) The County owns and operates an integrated health and hospital system, the County of Santa Clara Health and Hospital System, which includes three hospitals, including Santa Clara Valley Medical Center (SCVMC), which is a Level I trauma hospital. SCVMC, and the County's entire health and hospital system, incurs costs associated with treating and caring for those injured by firearms-related incidents. According to a 2018 analysis by the County of Santa Clara Public Health Department, the economic cost associated with firearm deaths, hospitalizations, and emergency department visits in Santa Clara County amounts to over \$126,000,000 annually, including the cost of medical bills and lost work. According to SCVMC, from January 1, 2016 to December 31, 2017, there were over 100 firearm injuries treated in the trauma center.
- (2) The County and its Board of Supervisors respects the right of Santa Clara County residents to possess and lawfully use firearms. This ordinance applies only to firearms that are not being carried or in the close proximity and control of their lawful owners or other authorized users. Further, secure gun storage does not preclude swift access to firearms in the home

by authorized users. The National Rifle Association notes that a modern gun lock box can be opened by its owner in less than two seconds, even in the dark.

- (3) Requiring firearms to be stored with trigger locks or in locked containers does not substantially burden a person's right and ability to use firearms for self-defense in the home.
- (c) For the foregoing reasons, the Board of Supervisors wishes to protect the health, safety, and wellbeing of residents in the unincorporated areas of the County, and the broader community, by reducing the potential for firearm related fatalities and injuries, including suicides, and diminishing the risk of theft by requiring gun owners to store their firearms in locked containers or with a disabling trigger lock except when being carried by or within the close proximity and control of an authorized person.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1. Division B19 of the Ordinance Code of the County of Santa Clara relating to the storage of firearms in the unincorporated area of the County is hereby amended to add a new Chapter to be numbered and titled and to read as follows:

**CHAPTER III.
SAFE STORAGE OF FIREARMS**

Sec. B19-16. Definitions.

- (a) "*Firearm*" means any gun, pistol, revolver, rifle, or any device that is designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. "Firearm" does not include imitation firearms, BB guns, or air rifles as defined in Government Code section 53071.5 or any successor legislation.
- (b) "*Close proximity and control,*" as used here, means within arm's reach of a person who is actively paying attention to the firearm such that they could gain control of the weapon before an unauthorized person could access the weapon.
- (c) "*Locked container*" means a locked container as defined in Penal Code section 16850, as amended from time to time and as listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

- (d) “*Residence*” means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, in-law units, motels, hotels, single room occupancies, time shares, and recreational and other vehicles where human habitation occurs, whether on a temporary or permanent basis, and whether owned, leased, rented, or used with or without compensation, and regardless of the lawful status of the structure or its occupancy. Notwithstanding the foregoing, “residence” shall not include a seasonal hunting lodge when used by an individual with a valid hunting license from the state Department of Fish and Wildlife and when no child who does not also 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).

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.

Sec. B19-18. Reporting theft or loss to law enforcement.

Nothing in this ordinance affects a person's obligations under California Penal Code § 25250 to report that a firearm has been lost or stolen to local authorities within five days of the time he or she knew or reasonably should have known that the firearm had been lost or stolen.

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Section 2. Severability. If any provision, clause or word of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision, clause, word or application of this Ordinance that can be given effect without the invalid provision, clause, word, or application. To this end, the provisions of this Ordinance are declared to be severable.

Section 3. Effective Date. This Ordinance shall not be effective until 90 days after its final adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on DEC 10 2019 by the following vote:

AYES: CHAVEZ, CORTESE, ELLENBERG
SIMITIAN, WASSERMAN

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE



S. JOSEPH SIMITIAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:



MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



H. LUKE EDWARDS
Deputy County Counsel