

ORDINANCE NO. _____

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

AN ORDINANCE ADDING CHAPTER 10.58 TO THE
SOUTH SAN FRANCISCO MUNICIPAL CODE
RELATING TO THE REGULATION OF FIREARM
AMMUNITION

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of South San Francisco (“City”) may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

NOW THEREFORE, the City Council of the City of South San Francisco does hereby ordain as follows:

SECTION 1. AMENDMENTS

Title 10 of the South San Francisco Municipal Code is hereby amended to add Chapter 10.58 to read as follows:

CHAPTER 10.58: Ammunition Regulations

10.58.010 Prohibited Ammunition
10.58.020 Records of Ammunition Sales

10.58.010 Prohibited Ammunition.

(a) Definition. For purposes of this Section, “Prohibited Ammunition” shall mean:

(1) Ammunition sold under the brand name “Winchester Black Talon,” or that has physical properties resulting in ballistics performance identical to ammunition presently or formerly sold under the brand name Winchester Black Talon; or,

(2) Ammunition designated by its manufacturer for purchase by law enforcement or military agencies only, unless other ammunition is available to the general public that has physical properties resulting in ballistics performance identical to such ammunition.

(b) Sale or Transfer Prohibited; Exceptions. No person, firm, corporation or other entity may sell, lease or otherwise transfer Prohibited Ammunition within the City of South San Francisco, except that this subsection shall not apply to the otherwise-lawful sale, lease or transfer of Prohibited Ammunition to the following:

(1) Peace officers who obtain Prohibited Ammunition from their employing agency;

(2) Federal law enforcement officers or other federal employees who obtain Prohibited Ammunition from their employing agency;

(3) Members of the armed forces of the United States who obtain Prohibited Ammunition issued by the military agency to which they belong;

(4) Patrol special police officers, animal control officers or zookeepers, harbor police officers, sheriff's security officers, or police security officers who obtain Prohibited Ammunition issued to them by their employing agencies; or,

(5) Businesses licensed as firearms dealers in possession of Prohibited Ammunition for sale to law enforcement and military agencies. Agencies employing persons listed in subsection (b)(4) are considered law enforcement agencies for purposes of this Section.

(c) Police Database. The South San Francisco Police Department shall prepare or cause to be prepared a public database of brands and product lines of ammunition meeting the definition of "Prohibited Ammunition" in subsection (a). Failure of the South San Francisco Police Department to create or maintain such a database, or the omission from the database of a particular brand or product line of ammunition otherwise qualifying as "Prohibited Ammunition" under subsection (a), shall not be a defense to or otherwise excuse a violation of this Section.

(d) Penalty. Violation of any of the provisions of this Section is a misdemeanor and upon conviction the violator may be punished by a fine not to exceed \$1,000.00 or by imprisonment in the county jail not to exceed six months, or by both.

10.58.020 Records of Ammunition Sales.

(a) Definitions.

(1) "Firearm ammunition," as used in this Section, shall include any ammunition for use in any pistol or revolver, or semiautomatic rifle or assault weapon, but shall not include ammunition for shotguns that contains shot that is No. 4 or smaller.

(2) "Semiautomatic rifle," as used in this Section, shall mean any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(3) "Assault weapon," as used in this Section, shall mean any of the weapons designated in California Penal Code Section 12276 or 12276.1.

(4) "Vendor," as used in this Section, shall mean any person located in the City of South San Francisco who is engaged in the sale of firearm ammunition, including any retail firearms dealer.

(5) "Remote Vendor," as used in this Section, shall mean any person engaged in the sale of firearm ammunition, including any retail firearms dealer, who is located outside the

City of South San Francisco but delivers or causes to be delivered firearm ammunition to an address within the City of South San Francisco.

(b) Record of Transfer. No Vendor shall sell or otherwise transfer ownership of any firearm ammunition without at the time of purchase recording the following information on a form to be prescribed by the Chief of Police: (1) the name of the Vendor (including the name of the specific individual) transferring ownership to the transferee; (2) the place where the transfer occurred; (3) the date and time of the transfer; (4) the name, address and date of birth of the transferee; (5) the transferee's driver's license number, or other identification number, and the state in which it was issued; (6) the brand, type and amount of ammunition transferred; and (7) the transferee's signature.

(c) Keeping of Records.

(1) The records required by this Section shall be maintained on the premises of the Vendor for a period of not less than two years from the date of the recorded transfer. Said records shall be subject to inspection at any time during normal business hours.

(2) Any Vendor or Remote Vendor who sells or otherwise transfers ownership of five hundred (500) or more rounds of any firearm ammunition to a transferee in a single transaction, where the transaction occurs within the City of South San Francisco or the firearm ammunition is ordered for delivery to an address within the City of South San Francisco, shall be subject to the reporting requirement of this subsection (c)(2). Within 24 hours of the commencement of the transaction, regardless of when the firearm ammunition is delivered, the Vendor or Remote Vendor shall report the transaction to the Chief of Police by electronic mail or by such other means specified by the Chief of Police. The report shall contain the same information required under subsection (b). In determining the number of rounds sold or otherwise transferred for purposes of complying with this subsection (c)(2), the Vendor or Remote Vendor shall include any combination of types, brands or calibers sold or transferred to the transferee.

(d) False Reports. No Vendor shall knowingly make a false entry in, or fail to make a required entry in, or fail to maintain in the required manner records prepared in accordance with subsections (b) and (c)(1). No Vendor shall refuse to permit a police department employee to examine any record prepared in accordance with this Section during any inspection conducted pursuant to this Section. No Vendor or Remote Vendor shall fail to submit the report required under subsection (c)(2), or knowingly include false information in such report.

(e) Penalties.

(1) First Conviction. Any person violating any provision of this Section shall be guilty of an infraction. Upon conviction of the infraction, the violator shall be punished by a fine of not less than \$50 nor more than \$100.

(2) Subsequent Convictions. In any accusatory pleading charging a violation of this Section, if the defendant has been previously convicted of a violation of this Section, each such previous violation and conviction shall be charged in the accusatory pleading. Any person violating any provision of this Section a second time within a 90-day period

shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more than \$400 for each provision violated, or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment. Any person violating any provision of this Section, a third time, and each subsequent time, within a 30-day period shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not more than \$500 for each provision violated, or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.

SECTION 2. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of South San Francisco hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 3. PUBLICATION AND EFFECTIVE DATE

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective thirty days from and after its adoption.

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Introduced as an Ordinance of the City of South San Francisco at a regular meeting of the City Council held the ____ day of _____, 2013 by the following vote:

Adopted as an Ordinance of the City of South San Francisco at a regular meeting of the City Council held the ____ day of _____, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Krista Martinelli, City Clerk

As Mayor of the City of South San Francisco, I do hereby approve the foregoing Ordinance this ____ day of _____, 2013.

Pedro Gonzalez, Mayor

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