

10/10/13

FILE NO. 130585

ORDINANCE NO. **249-13**

[Police Code - Large Capacity Magazines; Sales of Firearms and Ammunition; Reporting Lost or Stolen Firearms; Shooting Ranges]

Ordinance amending the Police Code to ban the possession of large capacity magazines for firearm ammunition; require that dealers advise persons purchasing a firearm of local firearms laws; establish a rebuttable presumption that the owner who has not reported the theft or loss of a firearm as required by law remains in possession of the firearm; modify certain requirements for ammunition sales require local dealers to report all ammunition sales to the Chief of Police; and, prohibit the operator of a shooting range from allowing minors to enter the premises.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables. Do NOT delete this NOTE: area.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Police Code is hereby amended by adding Section 619 618, to read as follows:

SEC. 619 618. PROHIBITION AGAINST POSSESSION OF LARGE CAPACITY MAGAZINES

(a) Findings.

(1) In 2007, 3,231 people died from firearm-related injuries in California, and 4,491 other people were treated for non-fatal gunshot wounds.

(2) The ability of an automatic or semiautomatic firearm to fire multiple bullets without reloading is directly related to the capacity of the firearm's feeding device or "magazine." Inside the

1 magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the
2 firearm's action.

3 (3) Magazines with a capacity of more than 10 rounds of ammunition are generally
4 considered to be "large capacity" magazines, although the statutory definitions vary. In some cases,
5 large capacity magazines can hold up to 100 rounds of ammunition. Other types of firearms, in
6 contrast, are generally capable of holding far less ammunition; for example, revolvers typically hold
7 six rounds of ammunition in a rotating cylinder.

8 (4) Although detachable large capacity magazines are typically associated with
9 machine guns or semiautomatic assault weapons, such devices are available for any semiautomatic
10 firearm that accepts a detachable magazine, including semiautomatic handguns.

11 (5) The ability of large capacity magazines to hold numerous rounds of ammunition
12 significantly increases the lethality of the automatic and semiautomatic firearms using them.

13 (6) Large capacity magazines were used in a number of recent high-profile shootings,
14 including:

15 The shooting on the campus of Virginia Tech on April 16, 2007, where 32 people were
16 killed and many others wounded,

17 The shooting in a gym in Pittsburgh on August 4, 2009, where three people were killed
18 and nine others injured,

19 The shooting on November 5, 2009 at Fort Hood, Texas, where 13 people were killed
20 and 34 more were wounded,

21 The shooting on January 8, 2011, at Tucson, Arizona, where 6 people were killed and 13
22 people were injured, including a member of the United States House of Representatives, and

23 The shootings on December 14, 2012, at Newtown, Connecticut, where 27 people (not
24 including the shooter) were killed.

1 (7) Large capacity magazines have also been used against San Francisco police
2 officers, including a recent incident at India Basin Shoreline Park, where undercover police officers
3 were targeted with semiautomatic pistols containing 30-round magazines. Prohibiting large capacity
4 magazines serves police safety by requiring perpetrators to pause to reload their firearms more
5 frequently, giving police officers greater opportunity to apprehend them.

6 (8) Large capacity magazine bans reduce the capacity, and thus the potential lethality,
7 of any firearm that can accept a large capacity magazine.

8 (9) Large capacity magazines are not necessary for individuals to vindicate their right
9 to self-defense. Only in an extraordinarily rare circumstance would a person using a firearm in self-
10 defense ever be required to use a large capacity magazine to defend himself or herself effectively. This
11 is particularly true in an urban center like San Francisco, where law enforcement can and does
12 respond quickly to threats and incidents. Conversely, the dangers of large capacity magazines are
13 heightened in dense urban areas like San Francisco.

14 (10) In 1994, in recognition of the dangers posed by these devices, Congress adopted a
15 law prohibiting the transfer and possession of large capacity magazines as part of the federal assault
16 weapon ban. That law was filled with loopholes, however.

17 (11) The federal law was enacted with a sunset clause, providing for its expiration after
18 ten years. Despite overwhelming public support for the law, Congress allowed the federal ban to
19 expire on September 13, 2004.

20 (12) Research commissioned by the U.S. Department of Justice to analyze the effect of
21 the 1994 federal ban on assault weapons and large capacity magazines found that attacks with
22 semiautomatics including assault weapons and other semiautomatics equipped with large capacity
23 magazines result in more shots fired, more persons hit, and more wounds inflicted per victim than do
24 attacks with other firearms.

1 (13) Since January 1, 2000, California Penal Code §§ 32310 et seq., have, with limited
2 exceptions, prohibited the manufacture, importation into the state, keeping for sale, offering or
3 exposing for sale, giving, or lending of large capacity magazines. California law does not, however,
4 prohibit the possession of these magazines, and this gap in the law threatens public safety.

5 (b) Definition. "Large capacity magazine" means any detachable ammunition feeding device
6 with the capacity to accept more than 10 rounds, but shall not be construed to include any of the
7 following:

8 (1) A feeding device that has been permanently altered so that it cannot accommodate
9 more than 10 rounds;

10 (2) A .22 caliber tube ammunition feeding device; or

11 (3) A tubular magazine that is contained in a lever-action firearm.

12 (c) Prohibition on Possession of Large Capacity Magazines.

13 (1) No person, corporation, or other entity in the City may possess a large capacity
14 magazine, whether assembled or disassembled.

15 (2) Any person who, prior to the effective date of this chapter, was legally in possession
16 of a large capacity magazine shall have 90 days from such effective date to do any of the following
17 without being subject to prosecution:

18 (A) Remove the large capacity magazine from the City;

19 (B) Surrender the large capacity magazine to the Police Department for
20 destruction; or

21 (C) Sell or transfer the large capacity magazine lawfully in accordance with
22 Penal Code § 12020.

23 (d) Exceptions. Subsection (c) shall not apply to the following:

1 (1) Any government officer, agent, or employee, member of the armed forces of the
2 United States, or peace officer, to the extent that such person is otherwise authorized to possess a large
3 capacity magazine in connection with his or her official duties;

4 (2) A person licensed pursuant to Penal Code §§ 26700 to 26915, inclusive;

5 (3) A gunsmith for the purposes of maintenance, repair or modification of the large
6 capacity magazine;

7 (4) Any entity that operates an armored vehicle business pursuant to the laws of the
8 state, and an authorized employee of such entity, while in the course and scope of his or her
9 employment for purposes that pertain to the entity's armored vehicle business;

10 (5) Any person, corporation or other entity that manufactures the large capacity
11 magazine for a person mentioned in subsection (a) or for export pursuant to applicable federal
12 regulations;

13 (6) Any person using the large capacity magazine solely as a prop for a motion picture,
14 television, or video production, or entertainment event;

15 (7) Any holder of a special weapons permit issued pursuant to Penal Code § 33300,
16 32650, 32700, 31000, or 18900;

17 (8) Any person issued a permit pursuant to Penal Code § 32315 by the California
18 Department of Justice upon a showing of good cause for the possession, transportation, or sale of large
19 capacity magazines between a person licensed pursuant to Penal Code §§ 26700 to 26915 and an out-
20 of-state client, when those activities are in accordance with the terms and conditions of that permit;

21 (9) Any federal, state or local historical society, museum, or institutional collection
22 which is open to the public, provided that the large capacity magazine is properly housed, secured from
23 unauthorized handling, and unloaded;

24 (10) Any person who finds the large capacity magazine, if the person is not prohibited
25 from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the

1 large capacity magazine no longer than is necessary to deliver or transport the same to a law
2 enforcement agency for that agency's disposition according to law;

3 (11) A forensic laboratory or any authorized agent or employee thereof in the course
4 and scope of his or her authorized activities;

5 (12) Any person in the business of selling or transferring large capacity magazines in
6 accordance with Penal Code § 12020, who is in possession of a large capacity magazine solely for the
7 purpose of doing so; or

8 (13) Any person lawfully in possession of a firearm that the person obtained prior to
9 January 1, 2000 if no magazine that holds 10 or less rounds of ammunition is compatible with that
10 firearm and the person possesses the large capacity magazine solely for use with that firearm.

11 (e) **Penalty.** Any person violating this chapter is guilty of a misdemeanor.

12 (f) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any
13 reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
14 decision shall not affect the validity or the effectiveness of the remaining portions of this Section or any
15 part thereof. The Board of Supervisors hereby declares that it would have adopted this Section
16 notwithstanding the unconstitutionality, invalidity, or ineffectiveness of any one or more of its
17 subsections, sentences, clauses, phrases, or words.

18 (g) **No duplication of state law.** In the event that the State of California enacts legislation
19 prohibiting possession of large capacity magazines, this Section 618 shall have no force or effect to the
20 extent that it duplicates any such state law.

21
22 Section 2. The San Francisco Police Code is hereby amended by amending
23 Section 613.10, to read as follows:

24 **SEC. 613.10. LICENSE—CONDITIONS.**

25 * * * *

1 (n) At or prior to the time of delivering a firearm, licensees shall provide the person buying,
2 leasing, or receiving the loan of the firearm with a copy of a notice, to be prepared by the Chief of
3 Police, advising the reader of local firearms laws, including safe gun storage requirements and the
4 requirement to report a lost or stolen firearm. The notice may also include summary information on
5 relevant State firearms laws, including the requirement that the sale, loan or other transfer of a firearm
6 to a non-licensed person be completed through a licensed firearms dealer.

7
8 Section 3. The San Francisco Police Code is hereby amended by amending
9 Section 616, to read as follows:

10 **SEC. 616. REPORTING THE LOSS OR THEFT OF FIREARMS.**

11 (a) Any person that owns or is otherwise in possession of a firearm shall report the
12 theft or loss of such firearm to the San Francisco Police Department within 48 hours of
13 becoming aware of the theft or loss whenever

14 (1) the owner resides in San Francisco, or

15 (2) the theft or loss of the firearm occurs in San Francisco.

16 (b) The failure of an owner or person in possession of a firearm to report the theft or
17 loss of the firearms within 48 hours of when the owner or person in possession becomes
18 aware or should have become aware of the theft or loss shall be punishable in accordance
19 with Section 613.19.

20 (c) The failure of an owner or person in possession of a firearm to report the theft or loss of the
21 firearms in a timely manner shall create a rebuttable presumption that the owner or person remains in
22 possession of the firearm.

23
24 / / /

25 / / /

1 Section 4. The San Francisco Police Code is hereby amended by amending
2 Section 615, to read as follows:

3 **SEC. 615. RECORDS OF AMMUNITION SALES.**

4 (a) **Definitions.**

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

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

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

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

17 (5) "Remote Vendor," as used in this Section, shall mean any person engaged
18 in the sale of firearm ammunition, including any retail firearms dealer, who is located outside
19 the City and County of San Francisco but delivers or causes to be delivered firearm
20 ammunition to an address within the City and County of San Francisco.

21 (b) No Vendor shall sell or otherwise transfer ownership of any firearm ammunition
22 without at the time of purchase recording the following information on a form to be prescribed
23 by the Chief of Police:

24 (1) the name of the Vendor (including the name of the specific individual)
25 transferring ownership to the transferee;

- 1 (2) the place where the transfer occurred;
- 2 (3) the date and time of the transfer;
- 3 (4) the name, address and date of birth of the transferee;
- 4 (5) the transferee's driver's license number, or other identification number, and
- 5 the state in which it was issued;
- 6 (6) the brand, type and amount of ammunition transferred; and
- 7 (7) the transferee's signature and thumbprint.

8 ~~Within 24 hours of the commencement of the transaction, regardless of when the~~

9 ~~firearm ammunition is delivered, the Vendor shall report the transaction to the Chief of Police~~

10 ~~by electronic mail at _____ or by such other means specified by the Chief of Police.~~

11 ~~The report shall contain the same information required above.~~

12 (c) ~~(1) The records required by this Section shall be maintained on the premises of the~~

13 ~~vendor for a period of not less than two years from the date of the recorded transfer. Said records shall~~

14 ~~be subject to inspection at any time during normal business hours.~~

15 ~~(2) Any vendor or remote vendor~~ Any Vendor or Remote Vendor who sells or

16 otherwise transfers ownership of five hundred (500) or more rounds of any firearm

17 ammunition to a transferee in a single transaction, where the transaction occurs within the

18 City and County of San Francisco or the firearm ammunition is ordered for delivery to an

19 address within the City and County of San Francisco, shall be subject to the reporting

20 requirement of this subsection (c) (e)(2). Within 24 hours of the commencement of the

21 transaction, regardless of when the firearm ammunition is delivered, the Vendor or ~~Vendor or~~

22 ~~Remote Vendor~~ shall report the transaction to the Chief of Police by electronic mail at

23 _____ or by such other means specified by the Chief of Police. The report shall

24 contain the same information required under subsection (b). In determining the number of

25 rounds sold or otherwise transferred for purposes of complying with this subsection (c) (e)(2),

1 the Vendor or Remote Vendor ~~vendor or remote vendor~~ shall include any combination of types,
2 brands or calibers sold or transferred to the transferee.

3 (d) No Vendor shall knowingly make a false entry in, or fail to make a required entry in,
4 ~~or fail to maintain in the required manner~~ records prepared in accordance with subsection (b)
5 ~~subsections (b) and (c)(1). No vendor shall refuse to permit a Police Department employee to examine~~
6 ~~any record prepared in accordance with this Section during any inspection conducted pursuant to this~~
7 ~~Section.~~ No Vendor or Remote Vendor shall fail to submit the report required under
8 subsection (c) ~~subsections (b) or (c) in a timely manner subsection (c)(2)~~, or knowingly include
9 false information in such report. A Vendor must maintain the records required under subsection (b)
10 on the premises for a period of not less than two years from the date of the recorded transfer. Said
11 records shall be subject to inspection by the Police Department at any time during normal business
12 hours.

13 (e) **Penalties.**

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

17 (2) **Subsequent Convictions.** In any accusatory pleading charging a violation
18 of this Section, if the defendant has been previously convicted of a violation of this Section,
19 each such previous violation and conviction shall be charged in the accusatory pleading. Any
20 person violating any provision of this Section a second time within a 90-day period shall be
21 guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more
22 than \$400 for each provision violated, or by imprisonment in the County Jail for a period of not
23 more than six months, or by both such fine and imprisonment. Any person violating any
24 provision of this Section, a third time, and each subsequent time, within a 30-day period shall
25 be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not

1 more than \$500 for each provision violated, or by imprisonment in the County Jail for a period
2 of not more than six months, or by both such fine and imprisonment.

3 (f) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section
4 be for any reason declared unconstitutional or invalid or ineffective by any court of competent
5 jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining
6 portions of this Section or any part thereof. The Board of Supervisors hereby declares that it
7 would have adopted this Section notwithstanding the unconstitutionality, invalidity, or
8 ineffectiveness of any one or more of its subsections, sentences, clauses, phrases, or words.

9
10 Section 5. The San Francisco Police Code is hereby amended by amending
11 Section 1040, to read as follows:

12 **SEC. 1040. FIREARMS REGULATED; MINORS PROHIBITED.**

13 (a) It shall be unlawful for any person, firm, corporation, club or association,
14 maintaining or conducting any shooting gallery or range to use or permit to be used or
15 discharged therein any firearms of greater than 22 caliber, unless the cartridges used in such
16 firearms be loaded with reduced charges.

17 (b) It shall be unlawful for any person, firm, corporation, club or association, maintaining or
18 conducting any shooting gallery or range to permit any person under the age of 18 to enter the
19 premises that are the subject of the permit unless accompanied by a parent or guardian.

20
21 Section 6. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8
9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12
13 By:


THOMAS J. OWEN
Deputy City Attorney

14
15
16 n:\legana\as2013\1300396\00878805.doc
17
18
19
20
21
22
23
24
25



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130585

Date Passed: October 29, 2013

Ordinance amending the Police Code to ban the possession of large capacity magazines for firearm ammunition; require that dealers advise persons purchasing a firearm of local firearms laws; establish a rebuttable presumption that the owner who has not reported the theft or loss of a firearm as required by law remains in possession of the firearm; modify certain requirements for ammunition sales; and prohibit the operator of a shooting range from allowing minors to enter the premises.

October 10, 2013 Neighborhood Services and Safety Committee - AMENDED, AN
AMENDMENT OF THE WHOLE BEARING NEW TITLE

October 10, 2013 Neighborhood Services and Safety Committee - RECOMMENDED AS
AMENDED

October 22, 2013 Board of Supervisors - PASSED ON FIRST READING

Ayes: 9 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Mar, Tang and Yee
Excused: 2 - Kim and Wiener

October 29, 2013 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener
and Yee

File No. 130585

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
10/29/2013 by the Board of Supervisors of
the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

11/8/13
Date Approved