

ORDINANCE NO. 3297

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING SECTION 5.28.010 OF THE CHULA VISTA MUNICIPAL CODE TO AUTHORIZE THE COLLECTION OF FIREARMS DEALER LICENSE ANNUAL FEES AND SECTION 5.28.015 TO REQUIRE ANNUAL INSPECTIONS OF FIREARMS DEALERS BY THE POLICE DEPARTMENT

WHEREAS, the State of California Penal Code permits local licensing authorities to assess fees to recover their full costs of processing applications for a firearms dealer license; and

WHEREAS, the existing City of Chula Vista ordinance relating to Firearms Dealers precludes the city from collecting a fee; and

WHEREAS, the Police Department must complete an inspection of the firearms dealer business as part of the approval process.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

Section I.

Chula Vista Municipal Code Chapter 5.28 is hereby amended to read as shown in Attachment A.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

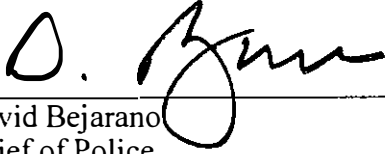
This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by



David Bejarano
Chief of Police



Glen R. Gogins
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 7th day of January 2014, by the following vote:

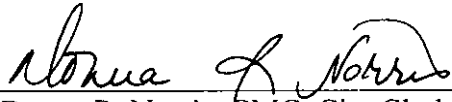
AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None


Cheryl Cox, Mayor

ATTEST:

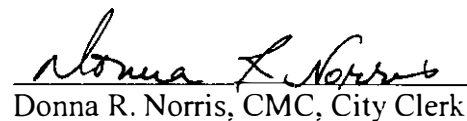


Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3297 had its first reading at a regular meeting held on the 17th day of December 2013 and its second reading and adoption at a regular meeting of said City Council held on the 7th day of January 2014; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

February 3, 2014
Dated


Donna R. Norris, CMC, City Clerk

Chapter 5.28 FIREARMS SALES*

Sections:

- 5.28.010 License required – Statutory authority applicable.
- 5.28.015 Annual inspection required
- 5.28.020 Purpose.
- 5.28.030 Definitions.
- 5.28.040 Provision of safe firearm storage device.
- 5.28.050 Provision of safe firearm storage materials.
- 5.28.060 Acknowledgment of receipt by purchaser.
- 5.28.070 Representations.
- 5.28.080 Exceptions.

* For statutory authority for cities to license businesses for purposes of revenue and regulation, see Gov. Code § 37101.

5.28.010 License required – Statutory authority applicable

No person shall engage in the business of selling, or otherwise transferring, or advertise for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person, without first obtaining a license from the chief of police, which license shall be issued in accordance with the conditions and provisions contained in Article 4, Chapter 1, Title 2, Part 4 of the Penal Code, commencing at Section 12070 Article 1, Chapter 2, Division 6, Title 4, Part 6 of the Penal Code, commencing at Section 26700. There shall be no charge for the issuance of this license. In accordance with Penal Code Section 26705(d), a nonrefundable required fee(s), or the required renewal fee(s), shall accompany the submission of each license application. Such licenses, when issued, shall expire one year from the date of issuance and may be renewed only by filing a written request for renewal, accompanied by the annual license fee and a copy of the license to be renewed. (Ord. 750, 1961).

5.28.015 Annual inspection required

The chief of police, or his designee, shall inspect each firearms dealer in the city for the purpose of determining that the provisions of Penal Code Section 16575 are met. No license to conduct business as a firearms dealer shall be granted unless an inspection reveals that the business complies with all provisions. An inspection must be completed at least once per year at the time of license application or renewal.

5.28.020 Purpose.

The purpose of this section related to trigger lock and safe firearm storage is to reduce the incidents of accidental gun deaths caused by the unintentional discharge of a loaded firearm. Ten (10) percent of all gun deaths in the United States are caused by accidental or unintentional discharge of a loaded firearm. One out of three deaths from accidental

firearm discharges could be prevented by a firearm safety device. Most children who accidentally injure or kill themselves or a friend do so while playing with a loaded firearm found in their home or a friend's home. The number of accidental deaths and injuries attributed to firearms and other weapons is unacceptable and warrants stricter control over the handling and storage of lawful firearms. Firearm owners have a responsibility to keep the public safe from the consequences associated with the proliferation and unsafe storage of firearms. Trigger locks or other similar devices, when properly used, can prevent the accidental discharge of firearms. This city has an interest in encouraging firearm owners to store their firearms in a safe manner and out of the reach of children. (Ord. 2774 § 1, 1999).

5.28.030 Definitions.

For the purposes of this chapter, the below terms are defined as follows:

- A. "Firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, from which a projectile is expelled through a barrel by the force of explosion or other form of combustion.
- B. "Firearm dealer" means any person licensed by the city pursuant to California Penal Code Section 12071 for the retail sale of firearms within the city of Chula Vista. "Firearm dealer" shall not include persons involved in transactions excluded under California Penal Code Section 12070.
- C. "Safe firearm storage device" or "safe storage device" shall mean any of the following devices, the proper use of which will prevent the unintentional discharge of the firearm:
 - 1. A lockable hard plastic or metal box capable of covering the whole of the firearm sold. The box shall have, or shall be provided with, a lock.
 - 2. A soft case with an outer shell made with a heavy canvas or ballistic nylon capable of covering the whole firearm sold. The case shall have a zipper capable of being locked shut. The soft case shall have, or shall be provided with, a lock.
 - 3. Any type of reusable locking device that is capable of rendering the firearm sold, leased, or transferred inoperable, when properly installed by keeping the trigger from releasing the sear, thereby dropping the firing pin, or locking the action of the firearm open so it will not go into battery. Any device integrated into the firearm by the manufacturer which meets the criteria of this paragraph shall qualify as a safe firearm storage device.
 - 4. All locks or locking devices sold, furnished or made available in order to comply with the provisions of this chapter shall have a key or a combination with at least three tumblers.

A firearm "safety" shall not be considered a safe storage device for purposes of this chapter. (Ord. 2774 § 1, 1999).

5.28.040 Provision of safe firearm storage device.

- A. It is unlawful for any firearm dealer to sell, lease or otherwise transfer ownership of any firearm without also providing with the firearm a safe firearm storage device

designed to prevent the unintentional discharge of the firearm being sold, leased, or transferred.

B. The safe firearm storage device shall be locked in place, properly attached to, or properly covering, the firearm at the time it leaves the firearm dealer's premises.

C. Nothing in this chapter shall prevent the firearm dealer from recovering the cost of providing a safe firearm storage device by charging a price for the safe storage device, either separately or as part of the price of the firearm. (Ord. 2774 § 1, 1999).

5.28.050 Provision of safe firearm storage materials.

It is unlawful for any firearm dealer to sell, lease or otherwise transfer ownership of any firearm without providing with the firearm printed material, approved by the chief of police, that advises the user of safe firearm storage practices. (Ord. 2774 § 1, 1999).

5.28.060 Acknowledgment of receipt by purchaser.

In connection with the sale, gift, loan or transfer of a firearm, the firearm dealer shall obtain from the person receiving the firearm a signed acknowledgment that a trigger locking or similar device required by CVMC 5.28.030, and the printed material required by CVMC 5.28.050, has been provided with the firearm. The acknowledgment shall be in a form approved by the chief of police. The firearm dealer shall retain signed acknowledgments of receipt in the same manner and to the same extent as required by state law for other firearm transaction records. (Ord. 2774 § 1, 1999).

5.28.070 Representations.

A firearm dealer who has fully complied with the provisions of this section relating to trigger locking or similar devices shall not be presumed to have made any representation to the transferee regarding the safety or appropriateness of the use of the trigger locking or similar device, nor shall the firearm dealer be liable in any civil action brought against the firearm dealer, to the extent such liability would be based solely upon the act of furnishing the trigger locking or similar device to a person in compliance with this section. (Ord. 2774 § 1, 1999).

5.28.080 Exceptions.

A. The requirements of CVMC 5.28.040, 5.28.050 and 5.28.060 shall not apply to firearms that have been determined by the Director of the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury, to be curios or relics under federal law.

B. The requirements of CVMC 5.28.040, 5.28.050 and 5.28.060 shall not apply to firearms rented at a licensed range for use on the range and shall not apply to temporary lending transactions in which the firearm does not leave the premises of the firearm dealer. (Ord. 2774 § 1, 1999).