

Chapter 12C

REGULATING THE SALE OF FIREARMS AND AMMUNITION

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SEC. 12C.1 POLICE PERMIT REQUIRED

12C.1.1 Except as provided in Penal Code § 12070(b), as it may be amended from time to time, it is unlawful for a person to engage in the activity of "firearm sales" as that term is defined under Section 12C.1.3 hereafter without a police permit as required by this Chapter.

12C.1.2 The requirement for a police permit is in addition to the requirement under Section 12C.13 of the City Code for a conditional use permit for firearm sales activity. No person may engage in firearm sales activity without a conditional use permit from the City Council and a police permit.

12C.1.3 "Firearm sales" means the sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

SEC. 12C.2 APPLICATION

12C.2.1 An applicant for a permit or renewal of a permit under this Chapter shall file with the Chief of Police an application in writing, signed under penalty of perjury, on a form prescribed by the City. The applicant shall provide all relevant information requested to demonstrate compliance with this Chapter including:

- (a) The name, age and address of the applicant;
- (b) The address of the proposed location for which the permit is required, together with the business name, if any;

- (c) Proof of a possessory interest in the property at which the proposed business will be conducted, in the form of ownership, lease, license or other entitlement to operate at such location and the written consent of the owner of record of the real property;
- (d) A floor plan of the proposed business which illustrates the applicant's compliance with security provisions of Section 12C.5 hereafter.
- (e) Proof of the issuance of a conditional use permit at the proposed location required under Section 12C.13 of the City Code.
- (f) Proof of compliance with all federal and state licensing laws;
- (g) Information relating to licenses or permits relating to other weapons sought by the applicant from other jurisdictions, including, but not limited to, date of application and whether each application resulted in issuance of a license;
- (h) Information relating to every revocation of a license or permit relating to firearms, including, but not limited to, date and circumstances of the revocation;
- (i) Applicant's agreement to indemnify, defend and hold harmless the City, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind, including attorney fees, arising in any manner out of the applicant's negligence or intentional or willful misconduct;
- (j) Certification of satisfaction of insurance requirements under Section 12C.6, hereof;
- (k) All convictions of the applicant for any of the offenses listed in Section 12C.8(5), hereof;
- (l) The application shall be accompanied by a nonrefundable fee for administering this Chapter as established from time to time by City Council resolution.

SEC 12C.3 INVESTIGATION BY CHIEF OF POLICE

The Police Chief shall conduct an appropriate investigation of the applicant to determine for the protection of the public safety whether the permit may be issued. The Police Chief may require an applicant, or any officer, agent or employee thereof, to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, a complete personal history set forth on a questionnaire provided by the Police Chief, and any other additional information which the Police Chief considers necessary to complete the investigation.

SEC 12C.4 CONDITIONS OF APPROVAL

In addition to other requirements and conditions of this Chapter, a police permit is

subject to the following conditions, the breach of any of which is sufficient cause for revocation of the permit by the Chief of Police:

12C.4.1 The business shall be carried on only in the building located at the street address shown on the permit. This requirement, however, does not prohibit the permittee from participating in a gun show or event which is authorized by federal and state law upon compliance with federal and state law;

12C.4.2 The police permit, or a certified copy of it, shall be displayed on the premises and at gun shows where it can be easily seen;

12C.4.3 The applicant shall not permit any person under 18 years of age to enter or remain within the premises without being accompanied by the parent or other adult legally responsible for the minor child where the firearms sales activity is the primary business performed at the site;

12C.4.4 The permittee shall not deliver a firearm to a purchaser earlier than is allowed by applicable state and federal law;

12C.4.5 The permittee shall not deliver a firearm to another purchaser, lessee or other transferee unless the firearm is unloaded and securely wrapped or unloaded in a locked container;

12C.4.6 The permittee shall not deliver a firearm to a purchaser, lessee or other transferee under the age of 18 years, or a firearm capable of being concealed upon the person to another person under the age of 21 years. Clear evidence of the identity and age of the purchaser shall be required before delivery of a firearm to a purchaser, lessee or other transferee. Evidence of identity may include, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employee identification card containing the bearer's signature and photograph, or similar documentation which provides the permittee or seller reasonable assurance of the identity and age of the purchaser;

12C.4.7 The permittee shall not sell, lease or otherwise transfer a firearm to a person whom the permittee or seller has reason to believe is within any of the classes prohibited by Penal Code, Sections 12021 or 12021.1 or Welfare and Institutions Code Section 8100 or 8103;

12C.4.8 No firearm or imitation of one or placard advertising its sale or other transfer shall be displayed in any part of the premises where it can readily be seen from the outside;

12C.4.9 REVOKED BY ORD. 633 N.S. 11/4/02

12C.4.10 The permittee shall properly and promptly process firearms transactions as required by Penal Code, Section 12082;

12C.4.11 The permittee shall keep a register of sales as required by Penal Code,

Sections 12073 and 12077;

12C.4.12 The permittee shall post conspicuously within the licensed premises all charges and fees required by Penal Code, Section 12071(b)(11) and the following warning in block letters not less than one inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD
OBTAINS AND IMPROPERLY USES IT, YOU MAY BE
FINED OR SENT TO PRISON."

12C.4.13 No firearm capable of being concealed on the person shall be delivered to a purchaser or transferee, unless that person presents to the permittee or seller a current basic firearm safety certificate, unless otherwise exempted by state law;

12C.4.14 The permittee shall offer to provide to the purchaser or transferee of a firearm a copy of the pamphlet described in Penal Code, Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm;

12C.4.15 The permittee shall report the loss or theft of a firearm that is merchandise of the permittee, a firearm that the permittee takes possession of pursuant to Penal Code, Section 12082, or a firearm kept at the permittee's place of business within 48 hours of discovery to the Police Department.

SEC. 12C.5 REQUIREMENT OF SECURED FACILITY

12C.5.1 In addition to the conditions of approval stated in Section 12C.4, the business location as shown on the police permit shall be a secured facility meeting all of the following specifications:

- (a) Every perimeter doorway shall include one of the following:
 - (i) A windowless steel security door, equipped with both a dead bolt and a doorknob lock, or
 - (ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door;
- (b) Every perimeter doorway shall also be provided with an exterior metal grate that is padlocked and affixed to the permittee's premises independent of the door and the door frame;
- (c) Every window covered with steel bars;
- (d) Heating, ventilating, air-conditioning and service openings are secured with steel

bars, metal grating and an alarm system;

(e) Any metal grate may not have a space larger than six inches wide measured in any direction;

(f) Each metal screen may not have a space larger than three inches wide measured in any direction;

(g) All steel bars shall be no further than six inches apart.

12C.5.2 Upon written request by the permittee, The Police Chief may approve alternative security measures which he or she considers will provide equivalent or superior security to the premises as the measures required under subsection (1) of this Section 12C.5.

12C.5.3 Every firearm that is kept in the permitted place of business shall be stored using one of the following methods:

(a) The firearm shall be secured with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises;

(b) The firearm shall be stored in a locked fireproof safe or vault in the permittee's business premises; or

(c) All firearms shall be stored on the premises out of the reach of customers in secure, locked facilities approved by the Chief of Police by which access to firearms is controlled by the permittee or seller to the exclusion of all others.

12C.5.4 All ammunition for use in firearms that is kept in the permitted place of business shall be securely stored in a manner that shall avoid thefts, as well as damage caused by explosion or discharge of ammunition, including explosion or discharge caused by fire at the place of business, as approved by the Police Chief.

12C.5.5 All exterior construction or improvements as set forth in Sec. 12C.5.1 above shall be subject to the provisions of Section 17.20 of the City Code relating to design review.

SEC. 12C.6 LIABILITY INSURANCE

12C.6.1 No police permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City and executed by an insurance company approved by the City, whereby the applicant is insured against liability for damage to property and for injury to or death of any person as a result of the sale, lease or transfer or offering for sale, lease or transfer of a firearm. The minimum liability limits shall not be less than

\$1,000,000 for each incident of damage to property or incident of injury or death to a person.

12C.6.2 The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until notice in writing has been given to the City Administrator at least 30 days prior to the time the cancellation becomes effective.

12C.6.3 Upon expiration of a policy of insurance and if no additional insurance is obtained, the permit is considered canceled without further notice.

SEC. 12C.7 ISSUANCE OF POLICE PERMIT - DURATION

12C.7.1 The police department may grant a police permit to the applicant if it finds that the applicant complies with all applicable federal, state and local laws including, but not limited to, the state Penal Code, City building code, fire code and zoning and planning codes.

12C.7.2 A police permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods upon the permittee's submission of an application for renewal, accompanied by a nonrefundable renewal fee established by City Council resolution. The renewal application and the renewal fee must be received by the police department no later than 45 days before the expiration of the current permit.

12C.7.3 A decision regarding issuance or renewal may be appealed in the manner provided for in Section 12C.10 here of .1

SEC. 12C.8 GROUNDS FOR PERMIT DENIAL

The Police Chief shall deny the issuance or renewal of a police permit when one or more of the following conditions exist:

12C.8.1 The applicant is under 21 years of age;

12C.8.2 The applicant is not licensed as required by federal, state and local law;

12C.8.3 The applicant has had a firearms permit or license previously revoked or denied for good cause within the immediately preceding two years;

12C.8.4 The applicant has made a false or misleading statement of a material fact or omission of a material fact in the application for a police permit. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of two years;

12C.8.5 The applicant has been convicted of:

- (a) An offense which disqualifies the applicant from possessing a firearm under federal, state and local law, including, but not limited to, the offenses listed in Penal Code, Section 12021,

- (b) An offense relating to the manufacture, sale, possession, use or registration of a firearm or dangerous or deadly weapon,
- (c) An offense involving the use of force or violence upon the person of another,
- (d) An offense involving theft, fraud, dishonesty or deceit,
- (e) An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the state Health and Safety Code, as it now reads or may hereafter be amended to read;

12C.8.6 The applicant is within a class of persons defined in the Welfare and Institutions Code, Sections 8100 or 8103;

12C.8.7 The applicant is currently, or has been within the past two years, an unlawful user of a controlled substance as defined by the Health and Safety Code as that definition now reads or may hereafter be amended to read;

12C.8.8 The operation of the business as proposed would not comply with federal, state and local law.

SEC. 12C.9 GROUND FOR PERMIT REVOCATION

In addition to the violation of any other provisions contained in this Chapter, circumstances constituting grounds for denial of a police permit also constitute grounds for revocation.

SEC. 12C.10 HEARING FOR PERMIT DENIAL OR REVOCATION

12C.10.1 A person whose application for a permit is denied or revoked by the Chief of Police has the right to a hearing before the Chief of Police before final denial or revocation.

12C.10.2 Within ten days of mailing written notice of intent to deny the application or revoke the permit, the applicant may appeal by requesting a hearing before the Police Chief. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Chief of Police shall set a time and place for the hearing within 30 days.

12C.10.3 The decision of the Chief of Police shall be made in writing within ten (10) days of the hearing. An applicant may appeal the decision of the Chief of Police to the City Council by filing a written appeal with the Piedmont City Clerk within fifteen (15) days of the date a copy of the written decision of the Chief of Police is deposited in the United States Mail, postage prepaid, addressed to the last address provided by the applicant, together with a written notice of the last day to file such appeal. The appeal shall state the specific grounds for the appeal.

(a) The appeal shall be scheduled before the City Council within thirty (30) days after its receipt by the City Clerk, and the City Clerk shall mail written notice of the hearing date to the applicant at applicant's last known address at least fifteen (15) days before the hearing.

(b) The City Council shall at the hearing consider the decision of the Chief of Police and all pertinent records and documents, including those submitted by the applicant and all other interested parties, and shall consider testimony of the applicant other interested parties.

(c) Upon request of the applicant or upon its own motion, the City Council may continue the hearing for no more than forty-five (45) days.

(d) Upon conclusion of the hearing, the City Council shall act upon the appeal. It may sustain or overrule the decision of the Chief of Police, making such findings of fact as the City Council deems appropriate.

SEC. 12C.11 NONASSIGNABILITY

A police permit issued under this Chapter is not assignable. An attempt to assign a police permit makes the permit void.

SEC. 12C.12 COMPLIANCE BY EXISTING DEALERS

A person engaging in firearm sales activity on the effective date of this Chapter or any amendment to it shall, within 60 days after the effective date, comply with this Chapter and any amendment to it, including the requirement for a conditional use permit under Section 12C.13 of the City Code.

SEC. 12C.13 ZONING COMPLIANCE

Firearm sales as set forth in Chapter 12C shall be permitted in Zone D as a conditional use pursuant to Section 17.8.3 of the City Code and shall not be permitted in any other zone within the City. A conditional use permit pursuant to Section 17.24 of the City Code shall be obtained before commencing firearm sales within the City. (Ord. No. 580 N.S., 10/96)

2/14/03