

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING CHAPTER 10.32 OF TITLE 10 OF THE
SAN JOSE MUNICIPAL CODE TO ADD A NEW PART
5 TO REQUIRE SAFE STORAGE OF FIREARMS IN A
RESIDENCE, AS DEFINED**

WHEREAS, firearm injuries have a significant adverse public health and safety impact nationally, in the State of California, and locally; and

WHEREAS, the Santa Clara County Public Health Department issued a report on firearm injuries in October 2015. In 2013, 12% of injury deaths were due to firearms injuries. During the period 2004-2013, there were an average of 44 deaths per year due to self-inflicted/suicide from firearms injuries, and an average of 28 deaths per year due to assault/homicide from firearms injuries. Self-inflicted/suicide accounted for the highest percentage of deaths (59%) from firearms injuries, with assault/homicide accounting for 37% of deaths from firearm injuries.

WHEREAS, unlocked guns in the home are susceptible to theft during burglaries. According to a November 2012 report of data from the Bureau of Justice Statistics—a program of the United States Department of Justice—an average of approximately 172,000 firearms were stolen each year during burglaries over the six-year period from 2005 through 2010. At least 80% or an annual average of at least 135,000 of these stolen firearms were never recovered by police; and

WHEREAS, according to a report by the Bureau of Alcohol, Tobacco and Firearms, private individuals in California reported over 10,000 lost or stolen firearms in 2012. The actual number of stolen guns is likely higher because California law does not currently require gun owners to report the theft of a firearm, although gun owners in

California are required to report the loss or theft of a firearm beginning July 1, 2017;
and

WHEREAS, according to the San Jose Police Department, during the period from May 1, 2014 through April 30, 2017, 286 firearms were reported stolen out of 9270 residential burglaries reported in the City of San Jose.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
SAN JOSE:

A new Part is added to Chapter 10.32 of Title 10 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

Part 5
SAFE STORAGE OF FIREARMS IN A RESIDENCE

10.32.160 Definitions

As used in this Part, the following terms have the following meaning:

- A. "Firearm" means a device, designed 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 as defined in California Penal Code, Section 16520, as may be amended from time to time.~~

- B. "Locked Container" means a locked container as defined in California Penal Code Section 16850, as amended from time to time. _____, ~~and is listed on the~~

~~California Department of Justice Bureau of Firearms roster of approved firearm safety devices.~~

- C. "Residence" means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms within a Residence, in-law units, motels, hotels, single room occupancy units, time shares, and recreational and other vehicles where human habitation occurs.
- D. "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 California Penal Code Section 23635, as may be amended from time to time.

10.32.170 Firearms in Residence ~~---~~ Prohibition, Exception for Reporting Theft or Loss, and Sunset for Reporting Exception

A. A person who owns or possesses a Firearm and keeps it in his or her Residence shall store the Firearm in a Locked Container or disable the Firearm with a Trigger Lock upon leaving the Residence.

B. A person who owns or possesses a Firearm who reports to the San Jose Police Department that a Firearm was stolen or lost within 24 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost shall not be prosecuted for violation of subsection A.

C. Subsection B shall remain in effect for one calendar year from the date the Ordinance adding this Part 5 of Chapter 10.32 of Title 10 of the San José Municipal Code takes effect.

PASSED FOR PUBLICATION of title this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk