

**From:** Rich Elam [REDACTED]  
**Sent:** Wednesday, October 18, 2017 10:33 AM  
**To:** City Clerk  
**Subject:** San Jose Proposed Mandatory Storage Ordinance

Dear San Jose City Counsel

I am sorry I missed the e comment deadline for the discussion of Mandatory Storage Ordinance for firearms.

I am for the Ordinance with modifications please read my comments below.

Thank You

San Jose City Council

I believe in always having my firearms locked in California DOJ approved gun storage cabinets at all times especially when I leave the house.

The problem here is that all my neighbors have Gun Safes that are 5 times more expensive and at least 3 times more difficult to break into than mine.

These guns safes are so much more secure they don't even need California DOJ approval.

Therefore if you demand only California DOJ approved Gun Cabinets are acceptable under this law all these more secure safes do not qualify.

The NRA wants you to have no storage requirement as we already have a Statewide storage requirement which does make sense.

But if you are 100% determined to do this then you need to add on that any Non California DOJ approved safe that investigating or arresting officers find and they determine is equivalent to/or better than California DOJ specifications it can be accepted as meeting the requirements of the law.

We can have firearm safety laws that work for everyone without making them so stringent as to defeat the intended purpose, safe storage of firearms at all times.

**From:** [REDACTED] >  
**Sent:** Wednesday, October 25, 2017 7:55 AM  
**To:** City Clerk; cityclerk@sanjose.ca.gov  
**Subject:** gun storage ordinance

Dear City Officials,  
I am against the flawed Peralez gun storage ordinance. Gun safes are the best and safest way to store guns, but these safes are excluded as safety devices by the ordinance. I urge all council members to vote no.  
Sincerely,  
James Corcoran

**From:** Sheila O'Neill [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 4:47 PM  
**To:** City Clerk  
**Subject:** GUN STORAGE

Please let it be known that I as a gun owner, vehemently oppose Councilman Peralez recommendations and proposed bill.  
Unfortunately the Councilman doesn't appear to read his own bills and is ill advised as to the merits of his proposal.

Sheila O'Neill-O'Connor  
Ph. [REDACTED]  
Em. [REDACTED]

**From:** Gary Linafelter [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 12:33 PM  
**To:** City Clerk  
**Subject:** Mandatory lock ordinance

To San Jose City council,  
Instead of the lock ordinance, why not make a stiff penalty for breaking in and theft?  
And, make the theft of a firearm a felony.  
Of course, firearms owners have a responsibility to keep their guns secure, but who can be responsible for criminals?  
Thank you,  
Gary Linafelter  
San Jose,CA

**From:** Sam Post [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 8:47 PM  
**To:** City Clerk  
**Subject:** Locked Storage Ordinance

Please forward as necessary - wanted to voice my opposition to the ridiculous locked storage ordinance recently approved by the San Jose City council.

As a native and resident of the bay area, I'm highly offended by this ordinance and its affront to common sense and my civil rights. My legally owned, completely safe firearms will be criminalized overnight by this ridiculous pretense of an ordinance, and the worst part is my firearms are already stored in a very safe and responsible manner and in compliance with existing laws. This ordinance will do nothing to promote gun safety or gun violence, but instead will serve only to further restrict lawful gun owners from the free exercise of their civil rights.

I plead, implore, and demand better from my elected representatives. Please actually teach children gun safety and promote the safe, legal, and constitutionally protected rights you swore to defend, instead of passing such ridiculous and frivolous laws. Instead of punishing law abiding citizens by miring them in a dizzying array of penalties when their house is burglarized, can you please actually punish violent criminals who use firearms in the commission of a crime?

Respectfully,

Sam

**From:** Guy Greenwood [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 8:47 PM  
**To:** City Clerk  
**Subject:** Gun storage in San Jose, just another reason to leave California

I just read about San Jose's proposed regulation on gun storage. I consider it a reason to donate to CARPA, and reaffirm my desire to leave California. The cost of doing business in San Jose is huge compared to Austin Texas and Atlanta Georgia, where newly minted software engineers earning 84K/yr, can afford buying a house. Perhaps it would be in the San Jose's best interest to pay attention to keeping its big employers, unlike Seattle losing Amazon. Earning in retirement, what a newly minted engineer does Austin, why should I even consider continuing to live anywhere in the San Francisco bay area?

Guy Greenwood

Sent from Yahoo Mail on Android

**From:** Russell Nickel [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 8:47 PM  
**To:** City Clerk  
**Subject:** Firearms storage ordinance

Gun owners are not only very aware that their firearms need to be stored safely and securely, but virtually all gun owners store their firearms safely and securely, preventing the theft of those firearms and also preventing others from accessing their firearms.

Local ordinances, like the seriously flawed proposed ordinance pushed by Councilmember Peralez , are totally unnecessary and are an infringement on our constitutional right to keep and bear arms. Councilmember Peralez also apparently does not understand the difference between conjunctive and disjunctive language in the proposed ordinance, and that is very concerning - I am very worried that we are represented by people who do not understand how our language works.

Furthermore, any laws that in any way regulate the right to keep and bear arms must be federal laws - we cannot have every municipality in this country enacting ordinances that regulate in countless thousands of different ways the right to keep and bear arms, especially when those arms are kept in a residence.

I urge the city council members to spend their time and efforts on matters that really do need attention, and not matters like the gun ordinances where there is no problem or issue that needs to be addressed.

Russ Nickel

**From:** Gregory R Lee [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 8:51 PM  
**To:** City Clerk  
**Subject:** Overturn Unconstitutional anti gun ordinance.

Please overturn the council's vote to implement the senseless anti gun ordinance that restricts the use of Gun Safes as legal storage of firearms. You all have sworn to uphold, obey, and defend the Constitution of the US and the Bill of rights that make up the constitution. Please remember you all represent the people and overturn biased political agendas that are contrary to your oath. Thank you for doing the right thing and overturn this anti gun storage ordinance.

Greg Lee  
US Navy 66-70  
Los Angeles County Fire Department 1973-2001 Ret.

**From:** dale Chabino [REDACTED] >  
**Sent:** Wednesday, October 25, 2017 9:46 AM  
**To:** City Clerk  
**Subject:** Anti-gun ordinance

Never before have I heard of a more ridiculous law as the one proposed by the San Jose City Council regarding "locked containers" for guns in a home. This "law" does absolutely nothing more than current laws already do. I'm appalled at the audacity and ignorance of council member Raul Peralez, an elected official, who is so adamant about pushing his own flawed agenda, he ignores the complete lack of logic and common sense of this new law. And it is, after all, another ploy by anti-gun radicals in an attempt to irradiate all guns.

I certainly hope other members of the San Jose City council have enough gumption and brains to see the fallacy of this law and defeat it.

A concerned citizen.

**From:** richard guill [REDACTED]  
**Sent:** Tuesday, October 24, 2017 6:10 PM  
**To:** City Clerk  
**Subject:**

Bottom line, the proposed locked storage ordinance reinforces what NRA/CRPA have warned members of before. Ordinances like this do not promote public safety. There is no "once size fits all" gun safety solution. Gun safes and trigger locks are one important component of an individualized safety program, but they can also make effective self-defense impossible.

If Peralez really wanted to encourage more people to store their firearms safely, he would have the city adopt—and then actually implement—one of the many programs that have been proven to reduce accidental gun deaths. Programs like firearm safety training, the Eddie Eagle GunSafe® Program, the National School Shield Program, and youth-specific programs designed to teach firearm safety and responsibility. NRA and CRPA have brought these programs to the City's attention on multiple occasions, but have been ignored.

**From:** John Cline [REDACTED]  
**Sent:** Tuesday, October 24, 2017 7:17 PM  
**To:** City Clerk  
**Subject:** new proposed gun law

To whom it may concern,

I must remind the city council that the 2<sup>nd</sup> amendment grants every American the ability to ensure personal safety and protection from tyranny in all levels of government. I see the progressive left gun control movements as the first steps toward this tyranny. We need to be ever vigilant against this kind of movement.

A concern citizen

Sent from Mail for Windows 10

**From:** Casey Lund [REDACTED] >  
**Sent:** Tuesday, October 24, 2017 7:45 PM  
**To:** City Clerk  
**Subject:** Anti-gun locked container ordinance

Please count me and my family as opposed to the new proposed city ordinance on locked gun containers.

Casey Lund  
CA



**From:** [REDACTED] >

**Sent:** Tuesday, October 24, 2017 8:05 PM

**To:** City Clerk

**Subject:** Fwd: San Jose Lets Hundreds of Donated Trigger Locks Go to Waste While It Moves To Impose A Flawed Locked-Storage Mandate

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**From:** "California Rifle & Pistol Association" <contact@crpa.org>

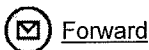
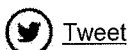
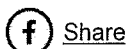
**To:** koppj@comcast.net

**Sent:** Tuesday, October 24, 2017 4:32:08 PM

**Subject:** San Jose Lets Hundreds of Donated Trigger Locks Go to Waste While It Moves To Impose A Flawed Locked-Storage Mandate

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CALIFORNIA RIFLE & PISTOL ASSOCIATION  
**CRPA NEWS**  
**Local Government Update**



**San Jose Lets Hundreds of Donated Trigger Locks Go to Waste  
While It Moves to Impose a Flawed Locked-Storage Mandate**

On Tuesday, October 17, the San Jose City Council voted to adopt an anti-gun ordinance that, if finalized, will require gun owners to store their firearms in certain designated “locked containers” or keep them disabled with a trigger lock whenever they leave home, but would not allow gun owners to store their firearms in most gun safes.

Over a dozen gun owners showed up to oppose the flawed proposal, with many more submitting written comments in opposition, but the City Council ignored their concerns and voted 6-5 in favor of adoption.

The ordinance is not yet final. There is still time to voice your opposition.

Meanwhile, hundreds of trigger locks that were donated to San Jose are going to waste in a police storehouse rather than being made available for free to the

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public as intended. Several years ago, the San Jose Police Department requested and received over 300 donated trigger locks through NSSF's Project Childsafe® Program. Those locks were supposed to be distributed free to the public. But instead those locks, which could make a real difference, are still collecting dust.

So are the politicians pushing this ordinance law serious about safe storage? Or is the ordinance a campaign a ploy for another councilmember planning to seek higher office? Read on.

As we reported last week, the proposed ordinance is a result of last year's Rules and Open Government Committee meeting where the gun ban lobby's "wish list" of anti-gun-owner proposals was considered. The package of anti-gun-owner laws was pushed by San Jose City Councilmembers Ash Kalra (now, sadly, a California Legislator) and Raul Peralez. While declining to pursue a number of the more extreme proposals, the Committee voted to forward the mandatory locked storage ordinance to the City Council.

NRA / CRPA attorneys submitted a joint-opposition letter to the City Council that pointed out serious flaws with the ordinance. For one thing, under the ordinance a "locked container" is only adequate if it satisfies *both* California's definition of the term "locked container" and is *also* specifically listed on DOJ's roster of approved firearm safety devices.

**ON THE PHONE** CAM & CO | HOSTED BY **DA Edwards**



**Matthew Cubeiro**  
Michel & Associates



*Watch NRA and CRPA attorney Matthew Cubeiro discuss San Jose's proposed ordinance on [NRATV](#) with Cam Edwards on [Cam & Co](#)*

The problem with this sloppy lawmaking is that very few gun safes are actually on the roster of approved firearm safety devices. That's because the roster specifically *excludes* gun safes, which satisfy the state storage law under a different subsection. That means modern gun safes—which are typically the most secure way to store a firearm—are not a qualifying container under the ordinance. The NRA/CRPA letter pointed this out, but Councilmember Peralez (the ordinance's main proponent) was so determined to ram his proposal through that he wrongly claimed that the NRA/CRPA letter “got it wrong” because, as he said, the ordinance uses the word **or**, not **and** when referring to the roster.

And yet, here's what it says:

- 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.

Conjunctive is not disjunctive, and obviously it is Councilmember Peralez who got it wrong. Another councilmember recognized his error and pointed it out to him, but Peralez did nothing to correct it. In fact, rather than move to correct the mistake, Peralez instead tried to amend and expand his ordinance to completely prohibit the carrying of firearms inside one's own home—no exceptions. Thankfully, the Chief of Police reminded him that people have a right to defend themselves in their homes, so Peralez reluctantly withdrew his proposed extreme expansion of the ordinance.

Further revealing his bias, Councilman Peralez belittled some of the public speakers. To show how difficult it can be to open a lockbox in a stressful situation, one speaker challenged Peralez to demonstrate for the crowd how quickly he could open a lockbox that contained a non-functioning replica firearm. Peralez refused, incorrectly claiming that if he did so he would be breaking the law by exposing a firearm in public once the lock box had been opened.

When it comes to gun laws, Peralez has no idea what he is talking about. But his actions reveal his true agenda—to make firearms so hard to get to that they are practically useless for defending your family. The cluelessness of the ordinance's sponsor reveals that this is not really just about "promoting public safety while preserving our Second Amendment rights" as politician Peralez disingenuously claims.

Bottom line, the proposed locked storage ordinance reinforces what NRA/CRPA have warned members of before. Ordinances like this do not promote public safety. There is no "once size fits all" gun safety solution. Gun safes and trigger

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locks are one important component of an individualized safety program, but they can also make effective self-defense impossible.

If Peralez really wanted to encourage more people to store their firearms safely, he would have the city adopt—and then actually implement—one of the many programs that have been proven to reduce accidental gun deaths. Programs like firearm safety training, the Eddie Eagle GunSafe® Program, the National School Shield Program, and youth-specific programs designed to teach firearm safety and responsibility. NRA and CRPA have brought these programs to the City's attention on multiple occasions, but have been ignored.

**San Jose's Proposed Ordinance is Not Yet Final—Make Your Voices Heard!**

Although the City Council voted 6-5 in favor of the proposed ordinance, it has not yet been officially adopted, and will come back to the City Council for additional discussion in the near future. To that end, we encourage all of our members who are able to make their voices heard and contact the City to oppose the proposed ordinance. You can do so by contacting the City Clerk at:

Office of the City Clerk  
200 E. Santa Clara St.  
San Jose, CA 95113  
Phone: (408) 535-1260  
Fax: (408) 292-6207  
Email: [cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)

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October 16, 2017

Mayor Sam Liccardo  
Vice Mayor Magdalena Carrasco  
Councilmember Charles "Chappie" Jones  
Councilmember Sergio Jimenez  
Councilmember Raul Peralez  
Councilmember Lan Diep  
Councilmember Devora "Dev" Davis  
Councilmember Tam Nguyen  
Councilmember Sylvia Arenas  
Councilmember Donald Rocha  
Councilmember Johnny Khamis

SAN JOSÉ CITY COUNCIL  
200 E. Santa Clara St.  
San José, CA 95113  
[cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)  
**VIA EMAIL & FAX: (408) 292-6207**

**Re: Proposed Ordinance Amending Chapter 10.32 of Title 10 of the San Jose  
Municipal Code—OPPOSITION**

Honorable Members of the City Council,

We write to you on behalf of our clients, the National Rifle Association of America, and the California Rifle & Pistol Association, Inc., as well as the hundreds of thousands of their members in California, including those members residing in the City of San José.

Our clients oppose the adoption of the recently proposed ordinance mandating firearms be stored in a locked container or disabled with a trigger lock in a person's place of residence (the "Proposed Ordinance"). As drafted, the Proposed Ordinance will preclude the safest and most secure methods of storing a firearm as a means of satisfying its requirements, suffers from serious vagueness issues, and is otherwise preempted by state law.

For the following reasons, we ask the City Council to reject the Proposed Ordinance, and instead consider the alternative programs offered by our clients that will better achieve the City's goals of combatting criminal misuse of firearms and preventing accidental injuries.

**I. THE PROPOSED ORDINANCE PRECLUDES THE USE OF THE SAFEST AND MOST SECURE MEANS OF STORING FIREARMS AVAILABLE ON THE MARKET**

As a threshold matter, the Proposed Ordinance requires any person who keeps a firearm in their residence to "store the Firearm in a Locked Container or disable the Firearm with a Trigger Lock upon leaving the Residence." In order for a device to be considered a "Locked Container," the Proposed Ordinance requires that the device satisfy the definition of California Penal Code Section 16850 and also be listed on the California Department of Justice, Bureau of Firearms ("DOJ") "roster of approved firearm safety devices."

California law defines the term "locked container" as "a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device."<sup>1</sup> But California law also defines the term "firearm safety device" as "a device *other than a gun safe* that locks and is designed to prevent children and unauthorized users from firing a firearm."<sup>2</sup> Such devices "may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm."<sup>3</sup>

Because the Proposed Ordinance requires a "Locked Container" to meet both the definition of a "locked container" *and* be listed on DOJ's "roster of approved firearm safety devices," it will preclude the use of many gun safes as a means for securing a firearm in one's residence—gun safes which are undoubtedly the safest and most secure means of storing a firearm available on the market. We highly doubt the drafters of the Proposed Ordinance intended such an absurd result. Rather, we believe the confusion stems from DOJ's own misinterpretation of the law.

In addition to the definitions for "locked container" and "firearm safety device," California law also defines the term "gun safe" as "a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to [Penal Code] Section 23650."<sup>4</sup> Under Penal Code section 23650, DOJ was required to "develop regulations to implement a minimum safety standard for firearm safety devices *and* gun safes to significantly reduce the risk of firearm-related injuries to children 17 years of age and younger."<sup>5</sup> Today, standards for "firearm safety devices" can be found in 11 C.C.R. section 4094, and standards for "gun safes" can be found in 11 C.C.R. section 4100.

For years, California has required all firearm transactions to be accompanied by a "firearm safety device that is listed on [DOJ's] roster of approved firearm safety devices."<sup>6</sup> However, if the purchaser or transferee already owns a gun safe that satisfies both California and DOJ's standards, and

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<sup>1</sup> Cal. Pen. Code § 16850. For reasons unrelated to the proposed ordinance, this definition does not apply to a utility or glove compartment of a motor vehicle.

<sup>2</sup> Cal. Pen. Code § 16540 (emphasis added).

<sup>3</sup> *Id.*

<sup>4</sup> Cal. Pen. Code § 16610.

<sup>5</sup> Cal. Pen. Code § 23650(a) (emphasis added).

<sup>6</sup> Cal. Pen. Code § 23635(a).



provides proof of ownership or otherwise as authorized by the Attorney General, this requirement is waived.<sup>7</sup> What's more, while a "firearm safety device" is required to be tested by DOJ in order to appear on the "roster of approved firearm safety devices," *"[g]un safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster."*<sup>8</sup>

Despite the fact that a gun safe is not requirement to be tested, DOJ has nonetheless tested and listed several gun safes on the "roster of approved firearm safety devices." But the vast majority of gun safes still do not appear on the roster for the reasons discussed above. Thus, by requiring a device to meet the definition of a locked container under California law *and* be listed on DOJ's roster of approved firearm safety devices, the Proposed Ordinance will preclude the use of many gun safes as a means of satisfying its requirement to safely secure a firearm upon leaving one's residence.

## II. THE PROPOSED ORDINANCE IS UNCONSTITUTIONALLY VAGUE

The due process provisions of the Fourteenth Amendment and Article 1, section 7 of the California Constitution require "a reasonable degree of certainty in legislation, especially in the criminal law."<sup>9</sup> And where statutes impact constitutionally protected conduct, the United States Supreme Court has raised the bar on the required certainty, demanding the greatest clarity "where the certainty induced by the statute threatens to inhibit the exercise of constitutionally protected rights."<sup>10</sup>

"The underlying concern [of the void for vagueness doctrine] is the core due process requirement of adequate notice."<sup>11</sup> To provide such notice, the terms of a penal statute "must be sufficiently explicit to inform those who are subject to it what conduct" is to be regulated.<sup>12</sup> Any statute that requires persons of "common intelligence" to "guess at its meaning" or "differ as to its application" necessarily violates due process.<sup>13</sup>

In other words, a law is unconstitutionally vague if: (1) the law fails to provide notice to persons of ordinary intelligence as to what items must be secured in a locked container as required; or (2) that the law's definitions are so vague that, without more, it fails to provide sufficient standards to prevent arbitrary and discriminatory enforcement.

Here, the definition of the term "firearm," as used in the Proposed Ordinance, refers only to California Penal Code section 16520. As generally defined by this section, a "firearm" is "a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of

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<sup>7</sup> Cal. Pen. Code § 23635(b).

<sup>8</sup> Cal. Pen. Code § 23635(b)(1); See also Cal. Pen. Code § 23655.

<sup>9</sup> *People v. Heitzman*, 9 Cal.4th 189, 199 (1994) (quoting *In re Newbern*, 53 Cal.2d 786, 792 (1960)) (emphasis added).

<sup>10</sup> *Coluati v. Franklin*, 439 U.S. 379, 391 (1979); *Baggett v. Bullitt*, 377 U.S. 360, 372 (1964); See also *People v. Barksdale*, 8 Cal.3d 320, 327 (1972) (stating that "stricter standards of permissible statutory vagueness may be applied to a statute having a *potentially inhibiting effect on fundamental rights*" (emphasis added)).

<sup>11</sup> *People ex rel. Gallo v. Acuna*, 14 Cal.4th 1090, 1115 (1997).

<sup>12</sup> *Katzev v. Los Angeles County*, 52 Cal.2d 360 (1959).

<sup>13</sup> *Connally v. General Const. Co.*, 269 U.S. 385, 391 (1926).

an explosion or other form of combustion.”<sup>14</sup> But in addition to this definition, there are a number of ways the term is defined. For one, the term also includes “the frame or receiver of the weapon,” but only as applied to:

- Firearm transaction records;
- The definition of “infrequent” loans involving firearms;
- Operation of law transfers;
- The definition of “responsible adult” regarding California firearm laws;
- The definition of “used firearm”;
- The license requirements for the sale, lease, or transfer of firearms, and the exceptions to these requirements relating to law enforcement;
- The exceptions for law enforcement to the requirements for gun shows;
- Recordkeeping, background checks, and fees relating to the sale, lease, or transfer of firearms;
- The “manufacture” of firearms;
- The restrictions on minors possessing firearms;
- The restrictions on firearm possession by prohibited persons;
- The exceptions relating to law enforcement for firearm eligibility checks;
- The Firearm Safety Certificate program;
- The Department of Justice’s “Ballistic Identification System”; or,
- The use of the term in the Welfare and Institutions Code.<sup>15</sup>

Penal Code section 16520 also states that the term “firearm” can include a “rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes,” but only as applied to:

- The definition of “lawful possession of [a] firearm”;
- California’s “loaded” firearm restrictions regarding criminal storage, carrying a concealed firearm, and carrying a loaded firearm in public; or,
- California’s restriction against carrying a concealed firearm.<sup>16</sup>

Penal Code section 16520 also states that the term “firearm” does “not include an unloaded antique firearm,” but only as applied to:

- The definition of “infrequent” firearm transactions;
- The definition of “firearm transaction records”;

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<sup>14</sup> Cal. Penal Code § 16520(a).

<sup>15</sup> Cal. Penal Code § 16520(b)(1-19).

<sup>16</sup> Cal. Penal Code § 16520(c).

- Operation of law transfers;
- The definition of “used firearm”;
- California’s restriction against the open carry of unloaded handguns;
- California’s restriction against carrying an unloaded firearm that is not a handgun in an incorporated city or city and county;
- The license requirements for the sale, lease, or transfer of firearms;
- California’s restriction against the sale or transfer of a handgun to any person under the age of 21, or any other firearm to a person under the age of 18;
- California’s restriction against the sale or transfer of a handgun that does not bear either a manufacturer’s serial number or other identification mark assigned to it by the California Department of Justice;
- California’s restrictions on the delivery of a firearm by a licensed firearms dealer;
- California’s restriction that all firearm transfers in California be processed by a California licensed firearms dealer;
- California’s license requirement for the manufacture of firearms; or,
- California’s requirements for the storage of firearms in a residence where another resident is prohibited from possessing firearms;<sup>17</sup>

Further, as used when referring to firearms that are unclaimed, abandoned, or subject to destruction, Penal Code section 16520 states the term “firearm” does not include a destructive device.<sup>18</sup> And as used when referring to “undetectable” firearms, the term “firearm” has the same meaning under Federal law, which is defined as “(A) any weapon (including a starter gun) which will or is designed to or may be readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device,” with the exception that the term “does not include an antique firearm.”<sup>19</sup>

Finally, as used when referring to the manufacture of firearms, the term “firearm” includes “the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.”<sup>20</sup>

By defining the term “firearm” as “a firearm as defined in California Penal Code, Section 16520, as may be amended from time to time,” absent any further clarification, the Proposed Ordinance is unconstitutionally vague. Penal Code section 16520 provides multiple definitions for the term “firearm” as it applies to specific provisions of the California Penal Code relating to firearms. While some items may be considered firearms for the purposes of one definition provided under Penal Code section 16520, those same items may not be considered firearms under other provisions of Penal Code section 16520.

<sup>17</sup> Cal. Penal Code § 16520(d).

<sup>18</sup> Cal. Penal Code § 16520(e).

<sup>19</sup> Cal. Penal Code § 16520(f).

<sup>20</sup> Cal. Penal Code § 16520(g).

Because the proposed definition for the term “firearm” fails to provide adequate notice to persons of ordinary intelligence as to what specific firearms must be secured in a locked container, and otherwise fails to provide sufficient standards to prevent arbitrary and discriminatory enforcement, the Proposed Ordinance is unconstitutionally vague and unenforceable.

### **III. THE PROPOSED ORDINANCE IS PREEMPTED BY STATE LAW**

Under the preemption doctrine, a local law will be struck down if it duplicates state law, conflicts with state law, or enters into a field wholly occupied by the state to the exclusion of local regulation, either expressly or by implication.<sup>21</sup> A local law “*duplicates* state law when it is “coextensive” with state law.”<sup>22</sup> A local law “*contradicts* state law when it is inimical to or cannot be reconciled with state law.”<sup>23</sup>

Here, the Proposed Ordinance dictates the manner in which residents keep their firearms within their own homes, and requires anyone who resides in San José to keep their firearms in a locked container or disabled with a trigger lock upon leaving their residence.

#### **a. The Proposed Ordinance Contradicts State Law**

California maintains a comprehensive set of statutes, creating criminal and/or civil liability for the improper storage of a firearm whenever a minor or prohibited person accesses a firearm and uses that firearm to cause death or bodily injury or carries it to a public place.<sup>24</sup> Liability for such is subject to an equally comprehensive set of exceptions.<sup>25</sup>

Specifically, state law exempts one from liability whenever: (1) the firearm is kept in a locked container; (2) the firearm is kept in a location a reasonable person would believe to be secure; (3) the firearm is carried on one’s person or the firearm is kept in close enough proximity to the person to be retrieved and used as if it were carried on one’s person; or (4) the firearm is locked by a locking device.<sup>26</sup>

By its express terms, the Proposed Ordinance strips from ordinary San José residents the right to engage in behavior specifically deemed lawful by the state. For it flatly denies individuals two options explicitly authorized by state law—i.e., to keep their firearms in a secure location (locked or not) or to keep the firearm under their immediate control—thereby contradicting state law.

#### **b. The Proposed Ordinance Enters an Area Fully Occupied by State Law**

In addition to the above, a local law is impliedly preempted by state law when it encroaches on an area of law occupied by state law. This occurs when either:

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<sup>21</sup> Cal. Const., art. XI, § 7; *O’Connell v. City of Stockton*, 41 Cal.4th 1061, 1067 (2007); *Fiscal v. City & Cty. of San Francisco*, 158 Cal.App.4th 895, 903-04 (2008).

<sup>22</sup> *O’Connell*, 41 Cal.4th at 1068.

<sup>23</sup> *Id.*

<sup>24</sup> Cal. Penal Code §§ 25100-25135, 25200-25225.

<sup>25</sup> Cal. Penal Code §§ 25105(a-g), 25135(a)(1-6), 25205.

<sup>26</sup> Cal. Penal Code §§ 25105(a-g), 25135(a)(1-6), 25205.

- (1) The subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern;
- (2) The subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or,
- (3) The subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality.<sup>27</sup>

As discussed above, the storage of firearms is fully and completely regulated by state law. In addition to California's negligent storage provision, any firearm sold by a California licensed firearms dealer must include a firearm safety device.<sup>28</sup> Dealers must also obtain an affidavit from customers who purchase long guns stating ownership of a gun safe or lock box.<sup>29</sup> To be an approved firearm safety device, DOJ conducts rigorous safety tests to ensure they "significantly reduce the risk of firearm-related injuries to children 17 years of age and younger."<sup>30</sup> There are also several storage requirements that apply to anyone living with another individual who is prohibited by state or federal law from owning firearms.<sup>31</sup>

Because California's firearm storage scheme is so comprehensive, any local interference with that scheme (except that which was expressly authorized) is preempted.

#### IV. CONCLUSION

Our clients understand the need to combat the criminal misuse of firearms and to prevent accidental injuries. To that end, they have a number of programs available to the City upon request.<sup>32</sup> These include firearm safety training,<sup>33</sup> the Eddie Eagle GunSafe® Program,<sup>34</sup> the National School

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<sup>27</sup> *Fiscal*, 158 Cal.App.4th at 904.

<sup>28</sup> Cal. Penal Code § 23635(a).

<sup>29</sup> See *BOF 978 (Rev. 01/2013): Affidavit Stating Ownership of a Gun Safe or Lock Box*, California Department of Justice, Bureau of Firearms, [https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/bof\\_978.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/bof_978.pdf) (Jan. 2013).

<sup>30</sup> Cal. Penal Code § 23650(a).

<sup>31</sup> Cal. Penal Code § 25135.

<sup>32</sup> <https://explore.nra.org/interests/safety-and-education/>.

<sup>33</sup> <https://explore.nra.org/interests/firearms-training/>. With roughly 1 million people attending NRA training courses annually, the NRA is recognized nationally as the Gold Standard for firearm safety training.

<sup>34</sup> <https://eddieeagle.nra.org/>. The Eddie Eagle GunSafe® program is a gun accident prevention program that seeks to help parents, law enforcement, community groups and educators navigate a topic paramount to our children's safety, teaching children when they see a gun to "Stop! Don't touch! Leave the Area, and tell an adult."

Shield Program,<sup>35</sup> and youth-specific programs designed to teach firearm safety and responsibility.<sup>36</sup> Each of these programs have proven to reduce accidental gun deaths and promote public safety—more so than any gun-control law can hope to achieve. Instead of adopting the Proposed Ordinance, we ask the City of San José to consider such alternatives.

For these reasons, we strongly encourage the City Council to reject the Proposed Ordinance. If you have any questions or concerns regarding the content of this correspondence, please feel free to contact us at your convenience.

Sincerely,  
**Michel & Associates, P.C.**



Matthew D. Cubeiro

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<sup>35</sup> <https://www.nationalschoolshield.org/>. The National School Shield program is committed to addressing the many facets of school security, including best practices in security infrastructure, technology, personnel, training, and policy.

<sup>36</sup> <http://youth.nra.org/>.

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

RD:CBM:KML  
7/28/2017

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 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**

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.

RD:CBM:KML  
7/28/2017

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**From:** [REDACTED] >  
**Sent:** Wednesday, October 25, 2017 4:40 PM  
**To:** City Clerk  
**Subject:** San Jose Flawed Locked-Storage Ordinance

Dear San Jose City Council Members,

Please reconsider officially adopting the gun locked-storage ordinance recently passed by the City Council. It is a flawed ordinance since it does not recognize gun safes as approved storage devices. Gun safes are probably the best and most secure method of storing guns.

Additionally, ordinances like these do not promote public safety. What they do is limit the ability to defend oneself and family.

Thanks you for considering my input.

Kim Koehler

**From:** Gary Caramella [REDACTED]

**Sent:** Tuesday, October 24, 2017 5:11 PM

**To:** City Clerk

**Subject:** Gun ordinance

I do not live in your jurisdiction and never would. Your new ordinance that effectively says you gotta lock your firearm(s) up in your own home is a limiting and unintelligent proposal. A gun safe is the best storage device for firearms/ammunition. Yet you let one obtuse nitwit run with his brain dead ideas and lawmaking. Which is normal for this retarded state. Gun safes work and are proven secure storage places for weapons. If this pendajo's dumb ass proposal passes, how many people do you think will obey it? And I'm sure your law officers have nothing better to do with their time than enforce this stupid thing. Good luck.

**From:** David Fiske [REDACTED]  
**Sent:** Wednesday, October 25, 2017 9:40 PM  
**To:** City Clerk  
**Subject:** Purposed Gun ordnance

One thing the city council does not take into consideration is the amount of crimes that will rise. You make hard for an honest person to protect there loved ones. The chrimel side gathers weapons with out regard to any laws. The more you cripple the law abiding citizens, gives the chrimel element all the open doors they need.

**From:** Roger Ludlow [REDACTED]  
**Sent:** Thursday, October 26, 2017 11:57 AM  
**To:** City Clerk  
**Subject:** Gun storage

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

**Please try to not be the citizens MOTHER!**

**You can't stop people from killing themselves!!**

**Nor can you stop people from acquiring a weapon to use against others! Look at France!**

**Please understand that GUNS DON'T KILL people! People do!**

**Roger Ludlow**

**From:** [REDACTED] >  
**Sent:** Thursday, October 26, 2017 10:49 AM  
**To:** City Clerk  
**Subject:** Anti-gun Ordinance

Please reconsider your position, this neighborhood just had a home invasion robbery and the resident was executed in his roommate's presence hopelessly.

We voted you for better our community, not to restricting our right to protect ourselves, especially at home.

Best Regards,

York Huang

**From:** C Grant Beech [REDACTED] >  
**Sent:** Thursday, October 26, 2017 10:49 AM  
**To:** City Clerk  
**Subject:** San Jose gun safe law

This law is stupid. I have no children in home, so you want me to put my gun in the safe every tme I leave the house. Then when I return get it out of the safe to place it in a place I an have access to it when needed while I am at home. Many more exposures and handling will create more chances for accidents. Prowlers will know I will be getting it out when I return so that is the time they will strike. If it is in a safe place all the time I will have access when needed. I don't think this law will be followed and honest citizens will end up being arrested when guns are found by police on unrelated matters which have nothiing to do with gun safes. As I said...Stupid law!

Grant

If you are going thru hell, keep on going!

**From:** Kathleen Rose [REDACTED] >  
**Sent:** Thursday, October 26, 2017 10:41 AM  
**To:** City Clerk  
**Subject:** Flawed Locked Storage Gun Ordinance

Dear City Council Members,

Please reconsider the flawed ant-gun ordinance recently passed on October 17. Gun safes are the safest locked containers, yet most gun safes will not be considered adequate "locked containers" under the proposed ordinance. All this does is make criminals out of law abiding citizens. Is that really the purpose of this ordinance?

Kathleen Rose  
[REDACTED] Rock Canyon Circle  
San Jose, CA 95127

[REDACTED]

**From:** Ryan Du Bois [REDACTED]  
**Sent:** Thursday, October 26, 2017 10:30 AM  
**To:** City Clerk  
**Subject:** "Safe" firearm storage law deeply flawed

To Whom It May Concern:

You recently voted 6-5 to approve a deeply flawed city ordinance regarding safe storage of firearms within the city.

The problem with this sloppy lawmaking is that very few gun safes are actually on the roster of approved firearm safety devices. That's because the roster specifically excludes gun safes, which satisfy the state storage law under a different subsection. That means modern gun safes—which are typically the most secure way to store a firearm—are not a qualifying container under the ordinance.

Please avoid passing this ordinance as you'll be making criminals out of anyone who stores a firearm in a gun safe.



**From:** Matthew Allan [REDACTED]  
**Sent:** Thursday, October 26, 2017 11:51 AM  
**To:** City Clerk  
**Subject:** Locking Firearms

The city council ordinance to require firearms be locked doesn't allow for me to simply lock my guns in my gun safe which seems absurd.

It honestly feels like the ordinance is designed to make me a criminal as there's no rational way for me to comply despite having a safe that makes my firearms completely safe from children and burglars alike.

Please change the ordinance to allow normal citizens like me to comply with the law easily. I value your safety. Please value mine.

Matthew Allan

**From:** George Fontes [REDACTED] >  
**Sent:** Thursday, October 26, 2017 11:44 AM  
**To:** City Clerk  
**Subject:** Locked Storage Mandate

To whom it may concern:

I am vehemently opposed to this gun storage ordinance.

As written, among other requirements open to litigation, it appears to directly conflict with behavior specifically deemed lawful by the state.

San Jose has enough issues to deal with without enacting ordinances which will certainly be challenged in court and cost the city funds and focus that is better spent dealing with the immediate issues facing all of us, i.e. the out of control homeless problem, housing shortages, police shortages, road repair, graffiti abatement/prosecution, gangs, etc.

Thank you,  
Regards,  
George

**From:** Jack Wells <[REDACTED]>  
**Sent:** Thursday, October 26, 2017 11:41 AM  
**To:** City Clerk  
**Subject:** Locked container for gun storage

I am completely against San Jose implementing a very specific requirement for guns to be in a specified locked storage container.

I am a 73 year old Vietnam War veteran and very conscious and compliant with guns in the household safety. This proposed law just adds more to bureaucratic regulation that will be extremely difficult to enforce. Certainly the San Jose City council had more important things to focus on.

John Wells  
Cupertino, CA

**From:** James Cooper [REDACTED] >  
**Sent:** Thursday, October 26, 2017 11:08 AM  
**To:** City Clerk  
**Subject:** Opposed to Flawed Locked Storage Mandate

Greetings,

I just wanted to voice my opposition to what I believe is a flawed locked storage mandate in San Jose. I am a resident of San Jose, and I believe that the mandate is flawed mainly because there are many safes that work perfectly well to store my firearms in a safe manner, but that are not listed as acceptable by both the city council and the department of justice. Many far superior safes are not considered as adequate by this law and if I want to protect my firearms above and beyond what is litigated in this law I will not be able to do so.

Thank you for taking the time to listen to my objection to this flawed ordinance being considered by the San Jose City Council.

Dr. Jim Cooper, D. Div., D. Chris. Counseling

**From:** Jess B. Guy <[REDACTED]>  
**Sent:** Thursday, October 26, 2017 10:59 AM  
**To:** City Clerk  
**Subject:** Safe Storage Ordinance

Its not unusual for uneducated politicians to pass flawed and unenforceable ordinances such as this. The question is, do they have the moral courage to admit their mistake and correct it. Not likely.

I own a number of one ton safes securing my firearms. They are not lawful storage units under this ordinance. Can someone explain why? Not likely.

Jess B. Guy  
[REDACTED]

**From:** DANTE ALIPIO <[REDACTED]>

**Sent:** Thursday, October 26, 2017 10:54 AM

**To:** City Clerk

**Subject:** Proposed Ordinance Amending Chapter 10.32 of Title 10 of the San Jose Municipal Code—  
OPPOSITION

Honorable Members of the City Council,

As a resident of San Jose and your constituent, I implore each of you oppose the proposed ordinance. As drafted, the ordinance defines the term “locked container” by referring to the definition used in the California Penal Code, *but also* requiring the container to be “listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.” But many modern and expensive gun safes are not listed on this roster because they are not required to be. As a result, some of the safest and most secure options for storing firearms will not satisfy the requirements of the proposed ordinance.

And this isn’t the only problem. Mandatory locked storage ordinances do nothing to promote public safety, and instead create a dangerous patchwork of laws that can easily trap unwitting, law-abiding gun owners in criminal prosecution. Even the Chief of Police noted that a “violation of such an ordinance would likely not come to light unless officers were called to a home or business on a report of a burglary or other criminal activity,” making it clear that such ordinances are only enforced after the fact and usually against crime victims. What’s more, California law already has a comprehensive set of laws regarding the negligent storage of firearms in one’s home, which already address every point of concern raised by the Chief.

Regards,

Dante Alipio, Jr.

**From:** Franck Ergas [REDACTED] >  
**Sent:** Thursday, October 26, 2017 10:57 AM  
**To:** City Clerk; District 10; District1; District2; District3; District4; District5; District 6; District7; District8; District9; The Office of Mayor Sam Liccardo  
**Subject:** Fwd: California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate

Dear council-members,

Why on earth would you impose this on your law abiding constituents? I have a California approved gun safe to store my weapons, but the City of San Jose doesn't think this is enough!!! Really??? I'm sorry I wasn't able to attend the hearing but I work for a living and am tired of getting treated like a criminal in my home town. Please reconsider this very flawed ordinance.

Regards,

Franck Ergas  
95120

----- Forwarded message -----

**From:** NRA-ILA <[admin@nramedia.org](mailto:admin@nramedia.org)>  
**Date:** Thu, Oct 26, 2017 at 10:20 AM  
**Subject:** California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate  
**To:** [FRANCKERGAS@gmail.com](mailto:FRANCKERGAS@gmail.com)

view the web version of this email

**NRA-ILA**  
INSTITUTE for LEGISLATIVE ACTION

## California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate



On Tuesday, October 17, the San Jose City Council voted 6-5 in favor of an anti-gun ordinance that, if finalized, will require gun owners to store their firearms in certain designated “locked containers” or keep them disabled with a trigger lock whenever they leave home, but would not allow gun owners to store their firearms in most gun safes. There is still time to contact the City Council and voice your opposition before the ordinance is finalized.

Office of the City Clerk

200 E. Santa Clara St.

San Jose, CA 95113

Phone: (408) 535-1260

Fax: (408) 292-6207

Email: cityclerk@sanjoseca.gov

The proposed ordinance is a result of last year’s Rules and Open Government Committee meeting where the gun ban lobby’s “wish list” of anti-gun-owner proposals was

considered. While declining to pursue a number of the more extreme proposals, the Committee voted to forward the mandatory locked storage ordinance to the City Council. NRA / CRPA attorneys submitted a joint-opposition letter to the City Council that pointed out serious flaws with the ordinance. For one thing, under the ordinance a “locked container” is only adequate if it satisfies *both* California’s definition of the term “locked container” and is *also* specifically listed on DOJ’s roster of approved firearm safety devices.

The problem with this sloppy lawmaking is that very few gun safes are actually on the roster of approved firearm safety devices. That’s because the roster specifically *excludes* gun safes, which satisfy the state storage law under a different subsection. That means modern gun safes—which are typically the most secure way to store a firearm—are not a qualifying container under the ordinance.

As the City Council pushes this flawed ordinance, hundreds of trigger locks that were donated to San Jose are going to waste in a police storehouse rather than being made available for free to the public as intended. Several years ago, the San Jose Police Department requested and received over 300 donated trigger locks through NSSF’s Project Childsafe® Program. Those locks were supposed to be distributed free to the public, but instead those locks have done nothing but collect dust.

Continue to check your inbox and the California Stand and Fight webpage for updates on issues impacting your Second Amendment rights and hunting heritage in California.

**From:** [REDACTED] >  
**Sent:** Thursday, October 26, 2017 12:12 PM  
**To:** City Clerk  
**Subject:** Gun law

It seems you are trying to turn law-abiding gun owners into criminals. You should feel shame.

Ralph Salmi

**From:** Robert [REDACTED] >  
**Sent:** Thursday, October 26, 2017 1:01 PM  
**To:** City Clerk  
**Subject:** Lockable storage

Dear Councilmember, I'm writing to urge you and fellow Councilmember's to carefully look at the gun storage locker bill you are voting on soon.

Many law abiding citizens like myself enjoy shooting sports and are responsible gun owners. We lock up our guns and ammunition separately. We have secure gun safes and or lockers. The bill you want to pass does not recognize many strong secure gun storage containers, safes & lockers that are already in use. Add in the 3000+ gun lock devices just collecting dust in your city storage or police station going to waste! UNUSED, not given away as intended.

Please use common sense and realize these devices work and we do not need special government approved safes or lockers. Any lockable storage device is doing the job intended. Do not financially burden us with the addition of specific government approved gun safe storage products.

Thank you and please oppose this new legislation as it is flawed.

Robert Donahue  
San Jose resident for 55 years!



**From:** Russell Vanwinkle [REDACTED]  
**Sent:** Thursday, October 26, 2017 12:11 PM  
**To:** City Clerk  
**Subject:** Recently passed Gun Storage Ordinance

Sir or Madam:

I am quite dismayed by the lack of thought shown by the City Council and staff when drafting this ordinance for the following reasons:

1. Unless the City is going to inspect house by house, the most likely scenario for enforcing this ordinance would be after a City Resident reports a burglary, or some other crime has been visited upon the Resident. This presents a heinous situation where, after being the victim of a crime and reporting it, the Resident is charged with a crime. Knowing I could be charged with a crime for reporting one is not at all conducive to my reporting a property crime that will most likely not be investigated anyway.
2. By specifically requiring the "locked container" to be listed on the California Department of Justice roster of approved devices, safes and residential security containers are not in compliance with this Ordinance as those devices meet state requirements under a different section of State Law. This means that continuing to use the safe I am currently using to store my firearms, is not an option if I want to continue to be a law abiding citizen.
3. I believe that by not including safes and other residential security containers as adequate to meet the requirements of this Ordinance, San Jose is violating the State preemption when it comes to gun laws.
4. This Ordinance will do nothing to increase the safety of City Residents and, in fact, may put them at greater risk. Because it would be quite inconvenient for the firearm chosen for home defense to be removed and replaced every time a gun owner leaves his/her residence, it is quite likely that when the need suddenly arises to defend a home, family or self, the firearm will not be readily available. This delay in putting hands on can easily be the cause of serious injury or death at the hands of a criminal.
5. As is the case in all gun control laws, only law abiding citizens will be affected since, by definition, criminals ignore the law and do whatever helps them in committing the crimes of their choosing.
6. Since Article I Section I of the California Constitution codifies my right to defend life, liberty and property, among other things, I would be very interested in knowing where the City believes it has the authority to interfere with my ability to do so.

Thank you and take care,

Russell Vanwinkle  
Sent from my iPhone

**From:** Jeffrey Heuser [mailto: [REDACTED]]  
**Sent:** Thursday, October 26, 2017 1:52 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Locked Storage Mandate!

We already have this and we do this already! Prosecute those who do unlawful activity, and do not subscribe to the inevitable: GUN TAKE AWAY, that you have sworn allegiance to! Jeff Heuser

**From:** Robert A. Boucher [mailto: [REDACTED]]  
**Sent:** Thursday, October 26, 2017 2:00 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Firearm storage ordinance

It has come to my attention that this ordinance will undergo another review, which gives the council a chance to *not enact* this proposal.

Responsible gun owners are that - responsible. They lockup their guns to protect them from criminals and to prevent others from accessing them. The guns used in crimes were probably not acquired from locked storage areas. As seen in other jurisdictions, irresponsible gun owners are rarely charged when their firearms are misused (if a child kills themselves, rarely will the parent go to jail).

As I'm sure you've heard, your definition of "locked container" is flawed, by requiring them to be on the DOJ list of safety devices. If you had done the research, you would know that most gun safes - the best way to store guns - are typically not listed as "safety devices".

It also says that such devices must be employed when the owner leaves the residence, which prevents a gun owner from carrying a gun on their own land, etc.

Everyone wants fewer deaths in our society, whether due to accidents or intentional acts. Where laws can be passed to help, they must be passed wisely. This is not one of those laws.

I urge the city to review this again and not enact it.

- robert.

--

Robert A. Boucher  
[REDACTED]  
Starwood Dr  
San Jose, CA  
[REDACTED]

**From:** Mike [REDACTED] >  
**Sent:** Friday, October 27, 2017 2:13 PM  
**To:** City Clerk  
**Subject:** Locked storage containers

The City Counsel wasting taxpayers time on this idiotic locked storage container bill when we have far more pressing issues. Here is a punch down list of what should be taken care of first

#1 Homeless problem ( have the Counsel persons driven around San Jose it's a crap hole and it's smells of human feces it's embarrassing)

#2 The Roads it's like Germany after WWII so many potholes and Garbage.

#3 get rid of the Mayor and the City Counsel because they are a bunch of Left wing Communists and they are ruining San Jose!

Leave law Abiding Gun Owners Alone and fix the List!!

Thank You,

Mike McNabb

Sent from my iPhone

**rom:** Clifford Cada [REDACTED] >  
**Sent:** Friday, October 27, 2017 9:09 AM  
**To:** City Clerk  
**Subject:** Oppose new ordinance

I would like to register my opposition to the proposed ordinance regarding storage of firearms.

Thank you.

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Please pardon the brevity. Sent from mobile device.

**From:** Sherman Seelinger [REDACTED] >  
**Sent:** Thursday, October 26, 2017 5:07 PM  
**To:** City Clerk  
**Subject:** Locked-Storage Mandate

San Jose City Clerk,

Please let the San Jose City Council know I am not happy with this added ordinance. This does nothing to decrease crime and only punishes the individual if someone breaks into their house and steals a firearm. The firearm was already behind a locked door (the front door of house) and it is already a crime to break into a residence. Please put your focus else where and let individuals manage their own households.

Thank You,

Sherman Seelinger  
[REDACTED]  
San Jose, Ca 95128

**From:** Bruce Ashmore [REDACTED]  
**Sent:** Thursday, October 26, 2017 4:17 PM  
**To:** City Clerk  
**Subject:** Locked Gun Storage Mandate

To the Mayor and City Counsel,

I strongly oppose this "Locked Storage Gun" mandate before the city counsel.

I own a gun safe and other locking devices that may not even qualify under this poorly written anti-gun legislation.

If someone follows myself or my wife home and enters my home, I want to be able to access my weapons without lengthy obstruction.

This is not enforceable anyway unless someone steals my guns or I have to protect myself then worry about being charged as a result of not abiding by this ridiculous measure.

Your consideration to vote against this and other anti-gun self protection measures would be greatly appreciated.

My vote depends on your vote.

Sincerely,  
Bruce Ashmore

**From:** Kyle X. Hourihan [redacted] >  
**Sent:** Thursday, October 26, 2017 4:04 PM  
**To:** City Clerk  
**Subject:** FW: California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate

Dear Sir or Madam,

It has come to my attention that this ordinance doesn't include gun safes. This is disturbing to me. Can you let me know who I can talk to about this?

Thanks,  
Kyle

**From:** NRA-ILA [mailto:admin@nramedia.org]  
**Sent:** Thursday, October 26, 2017 10:20 AM  
**To:** KYLE@freesoft.org  
**Subject:** California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate

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**NRA-ILA**  
INSTITUTE for LEGISLATIVE ACTION

## **California: San Jose Moves One Step Closer to Finalizing Flawed Locked-Storage Mandate**



On Tuesday, October 17, the San Jose City Council voted 6-5 in favor of an anti-gun ordinance that, if finalized, will require gun owners to store their firearms in certain designated “locked containers” or keep them disabled with a trigger lock whenever they leave home, but would not allow gun owners to store their firearms in most gun safes. There is still time to contact the City Council and voice your opposition before the ordinance is finalized.

Office of the City Clerk

200 E. Santa Clara St.

San Jose, CA 95113

Phone: (408) 535-1260

Fax: (408) 292-6207

Email: [cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)

The proposed ordinance is a result of last year’s Rules and Open Government Committee meeting where the gun ban lobby’s “wish list” of anti-gun-owner proposals was considered. While declining to pursue a number of the more extreme proposals, the Committee voted to forward the mandatory locked storage ordinance to the City Council. NRA / CRPA attorneys submitted a joint-opposition letter to the City Council that pointed out serious flaws with the

ordinance. For one thing, under the ordinance a “locked container” is only adequate if it satisfies *both* California’s definition of the term “locked container” and is *also* specifically listed on DOJ’s roster of approved firearm safety devices.

The problem with this sloppy lawmaking is that very few gun safes are actually on the roster of approved firearm safety devices. That’s because the roster specifically *excludes* gun safes, which satisfy the state storage law under a different subsection. That means modern gun safes—which are typically the most secure way to store a firearm—are not a qualifying container under the ordinance.

As the City Council pushes this flawed ordinance, hundreds of trigger locks that were donated to San Jose are going to waste in a police storehouse rather than being made available for free to the public as intended. Several years ago, the San Jose Police Department requested and received over 300 donated trigger locks through NSSF’s Project Childsafe® Program. Those locks were supposed to be distributed free to the public, but instead those locks have done nothing but collect dust.

Continue to check your inbox and the California Stand and Fight webpage for updates on issues impacting your Second Amendment rights and hunting heritage in California.

**From:** Rajeev Bharol [REDACTED] >  
**Sent:** Thursday, October 26, 2017 4:01 PM  
**To:** City Clerk  
**Subject:** Regarding Locked Storage proposal

Hi,

I have a concern about the current proposal about the 'designated locked containers' for the guns. It rules out almost all the available and widely used gun vaults. This is a sloppy proposal and I would request the city council to kindly reconsider this proposal.

Thanks  
Rajeev

**From:** ed escobedo [REDACTED]  
**Sent:** Thursday, October 26, 2017 3:31 PM  
**To:** City Clerk  
**Subject:** Locked storage mandate

Hey you people need to reconsider your position on this mandate until it is written appropriately. I am a voter an American citizen and a person who owns a gun safe that was perfectly legit and legal based on the existing standards in the state of California. The way your mandate is written most of the safes that gun owners like myself have, are not listed in the department of Justice's firearm safety devices current version. They did satisfy the previous requirements. To assume that you can decide to change the rules which will make most of us criminals is insane, and to, expect me and others like me to incur further expense is not only, unfair, but also unjust. The city of San Jose should have to reimburse all of the people affected by your poor decision-making as it is we are not at fault. Remember you're supposed to be representatives of the people of San Jose not offering your personal opinions. If this goes forward people like myself will make it our personal mission to remove you from city council and never allow you to affect our lives again. I agree that Firearms should be locked up and kept safe I also attest to the fact that the existing laws are adequate so quit trying to fix things that aren't broken. Thank you for your time and your consideration have a nice day

Sent from Yahoo Mail on Android



**From:** [REDACTED] <[REDACTED]>  
**Sent:** Thursday, October 26, 2017 3:29 PM  
**To:** City Clerk  
**Subject:** gun lock laws

The proposed laws are ridiculous and will add high costs to citizens who already have gun safes but aren't on the "approved safe" list. I vote my pocket book and so do all of my friends at the American Legion and Veterans of Foreign Wars. We'll be anxiously watching the final wording of the ordinance and remember who was for it.

**From:** Jean-Francois Delisle [REDACTED] >  
**Sent:** Thursday, October 26, 2017 3:29 PM  
**To:** City Clerk  
**Subject:** Gun Lock Ordinance

Dear City Council:

Please reconsider the passing of the mandatory gun lock. It burdens the good folks and does nothing to stop the unlawful.

Kind regards,

J.F. DELISLE

**From:** Tim Davis [REDACTED] >  
**Sent:** Thursday, October 26, 2017 3:03 PM  
**To:** City Clerk  
**Subject:** Firearm Safe Storage Ordinance

Dear Sir or Madam,

I am writing to express my opposition concerning the current proposed city ordinance regarding firearms storage. I would appreciate it if you could pass along to the city council my strong belief that this ordinance should not be enacted. It is simply wrong to punish law abiding people for the actions of thieves.

If the city council is so concerned about firearms being stolen, I suggest the city of San Jose work to combat the rampant burglaries throughout the city and potentially even direct the police to actually investigate burglaries. I know numerous people who have been burglarized in San Jose, many even had pictures or video of the burglars, and in no cases has the San Jose police department actually investigated or made any arrests.

If anyone on the council wishes to contact me for further information I can be reached at:

Timothy W Davis  
Thank you,  
Timothy Davis

**From:** Paul Donehue [REDACTED]  
**Sent:** Thursday, October 26, 2017 2:41 PM  
**To:** City Clerk; [REDACTED]  
**Subject:** Disapproval of san jose new anti-gun ordinance

I wanted to write about the recent gun ordinance passed that requires guns to be locked in "locked containers".

The ordinance is seriously flawed as the list of locked containers does not include many gun safes that are more robust storage mechanism, just are not on the limited list. There are many other problems with the legislation.

As it may be known criminals do not follow the laws and obtain weapons from non legal channels. This legislation will have little impact on the criminals ability to get guns and will only make it easier for law abiding citizens to end up in violation due to the many flawed parts of the legislation.

I am a long time sportsmen involved in hunting and shooting activities for 40+ years. I am very disturbed to see this misguided legislation be proposed by the city. Trying to get rid of guns by making it so burdensome to keep up with all these misguided regulations is an abuse of the law system.

Please forward this feedback to those involved with the misguided legal effort.

Regards,

Paul Donehue

**From:** Tim McQuilliams [REDACTED]  
**Sent:** Thursday, October 26, 2017 2:31 PM  
**To:** City Clerk  
**Subject:** Gun lock up

I am in knowledgeable gun order in in our a member!

I have two safes in my home I keep all my weapons locked up if I'm not at home I do not need you to mandate nor do I understand why you're wasting our time mandating and not specifying what kind of lock ups we have to have my safes are top-of-the-line Safe's I would like to see the 10 cans that you're saying that her safer than the safe that I have I am totally against this and it's a violation of my Second Amendment rights to protect my family and protectProperty

**From:** Al Rusnak [REDACTED] >  
**Sent:** Thursday, October 26, 2017 2:18 PM  
**To:** City Clerk  
**Subject:** SAFE STORAGE OF FIREARMS

Dear Sirs:

I am against the proposed amendment. Such a change does not improve anything.

Thanks,  
Al Rusnak

Scott R. McKim  
[REDACTED] Terri Way  
San Jose, CA 95124

October 26, 2017

Office of the City Clerk  
[cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)

Greetings –

I am in opposition of the proposed Firearms Storage Ordinance.

Your own Chief of Police has said that the only way this can be enforced is if the Police are called to the residence related to a theft of a firearm. I am opposed to any legislation that has the effect of turning a crime victim into a criminal.

But, on a more direct level, this ordinance makes no sense. It requires a locked container AND that the container be listed on the DOJ roster of approved safety devices. The problem is, these safety devices are designed for TRANSPORT of a firearm, and they specifically do not include gun safes.

ACCEPTABLE



NOT ACCEPTABLE



As you can plainly see, this ordinance makes the theft of a firearm in your acceptable storage device MUCH easier than a firearm stored in a locked Gun Safe.

Please, at the very least, fix this ordinance to allow for the locked storage of firearms in gun safes designed for that purpose.

Sincerely,

[REDACTED]