

Model Gun Violence Prevention Ordinances

FOR COLORADO LOCALITIES

September 2021

**GIFFORDS
LAW CENTER**
TO PREVENT GUN VIOLENCE


EVERYTOWN
FOR GUN SAFETY

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About Giffords Law Center and Everytown for Gun Safety

Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) is a non-profit organization focused on ending the epidemic of gun violence in America. Formed in the wake of the July 1, 1993 assault weapon massacre at a law firm in San Francisco, in 2016, the organization joined forces with former Congresswoman and gun violence survivor, Gabby Giffords. Renamed Giffords Law Center, the organization is now the premier clearinghouse for information about federal, state, and local firearms laws and Second Amendment litigation nationwide. Our website, giffords.org, is the most comprehensive resource on U.S. firearm laws.

Everytown For Gun Safety is the largest gun violence prevention organization in America supported by over six million supporters including mayors, moms, teachers, students, survivors, gun owners, and everyday Americans working daily to make their communities safer. Everytown is building a movement to end gun violence by changing how America thinks about gun violence, demanding action from our elected officials, and supporting evidence-based gun violence prevention strategies.

Giffords Law Center and Everytown for Gun Safety work closely with governmental entities and activists throughout the United States. Our organizations provide legal and technical assistance in the form of legal research and analysis, and support the development of legislative and regulatory strategies. We also engage in educational outreach and advocacy, producing reports, analyses and model laws.

For too long, Colorado localities have been largely barred from pursuing gun violence prevention strategies tailored to the needs of their communities. With the passage of SB 256, a first of its kind repeal of Colorado’s restrictive firearm preemption law, localities are free to take actions that can help prevent gun violence and make their communities safer.

What follow are a series of model laws that our organizations believe are among the most effective steps localities can take to prevent gun violence. It’s important to remember however that model laws provide only a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. Colorado jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report is based on Giffords Law Center’s and Everytown’s review of existing laws, judicial decisions, policy research, studies, and other gun violence prevention data, and it should answer many questions about the options available to communities on the subjects covered by the model legislation.

This report contains our nonpartisan analysis, study, and research on gun violence prevention case law and policies, and is intended for broad distribution to the public. Our presentation of this report is based upon our independent and objective analysis of the relevant law and

pertinent facts and should enable public readers to form their own opinions and conclusions about the merits of this sample legislation.

Giffords Law Center and Everytown are available to provide additional legal research, analysis, and drafting assistance to those seeking to enact a law regulating firearms dealers and ammunition sellers, or other laws to reduce gun violence. Please see giffords.org and everytown.org for more information about our services.

This report and model law do not offer, and are not intended as, legal advice, and should not be regarded as such. Any jurisdiction considering the adoption of this model law should consult with counsel.

Prohibiting Open Carry

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF XXXX TO PROHIBIT THE OPEN CARRYING OF FIREARMS IN PUBLIC PLACES

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings:

Whereas, the open carrying of firearms in public places is a dangerous activity that leads to confusion amongst the public and makes law enforcement's job more difficult.

Whereas, the open carrying of firearms has been used by white supremacists and other extremists to usurp the role of law enforcement or participate in unsanctioned and illegal militias. Open carrying has also been used to intimidate and infringe on the First Amendment rights and political participation of others.

Whereas, the open carrying of firearms has enabled gun rampages in Colorado and elsewhere. In Colorado Springs, a resident reported to police that a suspicious person was open carrying a rifle, but because state law does not prohibit open carry, police were unable to take action until the gun carrier shot and killed three people.

Whereas, even when open-carry incidents do not end in shootouts as in Colorado Springs, the confusion they cause threatens public safety by diverting law enforcement resources and interfering with police responses to true emergencies.

Whereas, a visible gun has been found to make people more aggressive; therefore, open carry makes it more likely that ordinary disagreements will turn into violent or lethal conflicts.

Whereas, Colorado state law is currently silent regarding the open carrying of handguns and rifles and shotguns.

Whereas, Colorado respects the ability of law-abiding citizens to carry firearms in public by allowing them to carry a concealed handgun in places where they are licensed to do so.

Whereas, most Coloradans and Americans do not choose to openly carry firearms. Survey research suggests that regular open carriers only represent roughly 0.2% of the U.S. population and 1.5% of handgun owners.

RESOLVED the City/County of XXXX finds it necessary to prohibit the open carrying of firearms in order to protect the safety of its residents, conserve law enforcement resources and deter illegal violence, and ensure that people are able to vote and exercise First Amendment rights without fear of intimidation.

SECTION 2. Prohibition on Openly Carrying Firearms

A. No person shall knowingly carry a firearm on or about their person in a public place.

B. This subsection shall not apply to:

- (1) Any federal, state, or local law enforcement officer when engaged in official duties.
- (2) Any member of the United States Armed Forces or Colorado National Guard when engaged in official duties.
- (3) A person carrying a firearm when engaged in target shooting or when engaged in lawful hunting activity.
- (4) The carrying of a firearm on a person's own property, business, or dwelling or on the property of another with permission from the property owner.
- (5) The carrying of a firearm in a motor vehicle or private means of conveyance.
- (6) The carrying of an unloaded firearm in a locked or enclosed case.
- (7) The carrying of a concealed handgun by a person with a valid permit to carry issued or recognized pursuant to Title 18, Article 12, Part 2 of the Colorado Revised Statutes, or the otherwise lawful use of a handgun by a person with a valid permit to carry.

C. Any violation of the provisions of this section by a person who knew or reasonably should have known that their conduct was prohibited shall be punished by a fine of not more than five hundred dollars for a first offense, and by a fine of not more than one thousand dollars or incarceration of up to thirty days in jail or by both such fine and incarceration for a second or subsequent offense. Any violation of the provisions of this section by a person who did not know or could not reasonably have known that their conduct was prohibited shall be treated as a civil infraction and punished by a fine of not more than two hundred and fifty dollars.

D. As is used in this subsection:

- (a) "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.
- (b) "Public place" means a place to which the public or a substantial number of the public has access.

SECTION 3. Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Chapter or any part thereof. The [Legislative Body] hereby declares that it would have adopted this Chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

Prohibiting Carry in Sensitive Areas

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XX, OF XXX TO PROHIBIT THE CARRYING OF FIREARMS IN CERTAIN PUBLIC PLACES

Be it Enacted By the City/County of _____, Colorado:

SECTION 1. Findings:

Whereas, the City/County of XXXX respects the rights of law-abiding citizens to carry concealed handguns in public places where it is safe and lawful to do so.

Whereas, there are certain areas where firearms pose an acute risk to the health and well-being of children, office workers, and members of the public.

Whereas, the presence of firearms at government buildings and offices, polling places, ballot counting facilities, and public demonstrations poses a serious threat to First Amendment rights, voting rights, and the functioning of our democracy.

Whereas, people carrying handguns in public buildings and at crowded public events—including financial institutions, sporting venues, courthouses, hospitals and medical or mental health facilities, theaters, houses of worship, and similar locations—create unnecessary risks of intentional or accidental shootings, increase the risk of lethal disputes between members of the public, and increase the risk that a law-abiding citizen's weapon will be stolen and used by someone else to harm or threaten employees or the public.

Whereas, courthouses and hospitals in particular are the site of high-stakes, emotional events and may be frequented by people in crisis who do not have a choice other than to be there. Allowing the carry of concealed firearms in such locations increases the risk of intentional or reckless violence or violence fueled by mental health crises, and raises the possibility that everyday disagreements will escalate into shootouts.

Whereas, the presence of firearms in places frequented by children and families—including parks, playgrounds, community and recreation centers, and daycare centers—poses unreasonable risks to children, particularly of unintentional shootings and firearm misuse, as well as trauma that can result from mishandled firearms or gun violence.

Whereas, firearms pose a substantial danger in the vicinity of intoxicated people at facilities that serve alcohol, as research demonstrates a strong link between alcohol use and domestic violence, gun crimes, and self-inflicted firearm injuries.

Whereas, claims that “gun-free zones” invite mass shootings have been debunked by research showing that almost all—nearly 90%—of high-fatality gun massacres since 1966 have occurred wholly or partly in locations where civilian guns were allowed or there was armed security or law enforcement present. In contrast, after the federal government passed a law restricting guns within 1,000 feet of schools, researchers documented significant improvements to student safety.

RESOLVED the City/County of XXXX finds it necessary to prohibit the open or concealed carrying of firearms in certain designated public places in order to protect the safety of its residents.

SECTION 2. Prohibition on Possession of Firearms in Buildings and Areas Under the Control of the Jurisdiction

A. No person shall knowingly carry any firearm, whether in an open or concealed manner, in any of the following locations:

- (1) Any building or real property [or individual buildings] owned or operated by the City/County of XXXX or an entity created or controlled by the City/County of XXXX.
- (2) The portion of any building [or individual buildings] that is being used for governmental purposes by the City/County of XXXX or an entity created or controlled by the City/County of XXXX.
- (3) Any public parks [or specific public parks] or playgrounds.
- (4) Any recreation or community center facility owned, operated, or managed by the City/County of XXXX.
- (5) At any demonstration as described in this section held on public property owned or controlled by the City/County of XXXX.
- (6) Within 500 feet any polling location within the City/County of XXXX on the day of an election or at a place officially designated by the City/County of XXXX for the counting of ballots on any day when ballots are being counted or conducting activities related to a federal, state, or municipal election.
- (7) The area of any facility licensed to serve alcohol pursuant to Title 44, Article 3, Colorado Revised Statutes.
- (8) A hospital.

(9) A facility or office that has medical, mental health, or substance abuse professionals to provide screening, evaluation, or treatment for mental health or substance abuse disorders.

(9) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship without explicit permission from the operating authority.

(10) A stadium or arena.

(11) A courthouse.

(12) A depository financial institution or a subsidiary or affiliate of a depository financial institution.

(13) A theater.

(14) A day care center or preschool.

B. Notice of the prohibitions on the concealed and open carry of firearms shall be posted conspicuously at all public entrances to the locations identified in subsection A as required by C.R.S. 29-11.7-104 and C.R.S. 18-12-214(c)(2).

City/County (1) No later than sixty days after the enactment of this ordinance, the of XXX shall make compliant signs available for download on a publicly accessible website.

as (2) No person shall be determined to violate this section if signs are not posted required by this subsection.

C. The provisions of this section do not apply to:

(1) Any federal or state law enforcement officer when engaged in official duties.

(2) Any member of the United States Armed Forces or Colorado National Guard when engaged in official duties.

engaged in (3) Security guards employed or retained by the City/County of XXXX while official duties.

(4) The carrying or possession of a firearm in a motor vehicle or other private means of conveyance.

D. As used in this section:

(1) "Demonstration" means demonstrating, picketing, speechmaking or marching, holding of vigils and all other like forms of conduct occurring in a public place which involve the communication or expression of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. Such term shall not include casual use of property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.

E. Anyone violating the provisions of this subsection shall be subject to immediate removal from the premises. Anyone violating the provisions of this subsection who knew or reasonably should have known that their conduct was prohibited, including because notice of the firearm prohibition was posted conspicuously as required by this section, shall be punished as follows:

(1) For a first offense, by a fine not to exceed fifty dollars.¹

(2) For a second or subsequent offense, by a fine not to exceed five hundred dollars.

(3) For any violation where the person refuses to leave the premises after receiving oral notice from the property owner or authorized representative, the person shall be subject to the fines as provided in subparagraphs (1) or (2) or to a period of imprisonment not to exceed thirty days or both.

SECTION 3. Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Chapter or any part thereof. The [Legislative Body] hereby declares that it would have adopted this Chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

¹ Senate Bill 256 provides, "An ordinance, resolution, or other regulation prohibiting a permittee from carrying a concealed handgun may only impose a civil penalty for a violation and require the person to leave the premises. For a first offense, the ordinance, resolution, or other regulation may not impose a fine that exceeds fifty dollars and may not impose a sentence of incarceration. A person who does not leave the premises when required may be subject to criminal penalties."

Raise the Age

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF XXXX TO PROHIBIT THE PURCHASE OF FIREARMS BY ANYONE UNDER THE AGE OF TWENTY-ONE

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings

Whereas, individuals eighteen to twenty commit gun homicides at rates four times higher than those twenty-one and older.

Whereas, research shows that there are fundamental developmental differences between the minds of adults and teenagers and that regions of the minds governing behavior do not fully mature until the twenties.

Whereas, evidence shows that the firearm suicide rate among young men increases 26.9 percent between the ages of twenty and twenty-one.

Whereas, under current law a person must be twenty-one to purchase a handgun from a licensed gun dealer but is able to purchase a high-powered semiautomatic rifle or shotgun from a gun dealer at eighteen.

RESOLVED the City/County of XXXX finds it necessary to restrict the sale of firearms to individuals under the age of 21 to protect public safety.

SECTION 2. Prohibition on Purchasing Firearms

- A. No person under the age of twenty-one shall purchase a firearm.
- B. No person shall sell a firearm to a person under the age of twenty-one.
- C. This subsection shall not apply to:
 - (1) Any federal, state or local law enforcement officer when purchasing or selling firearms in connection with official duties.
 - (2) Any member of the United States Armed Forces or Colorado National Guard when engaged in official duties.

D. Any violation of the provisions of this section in which the person knew or reasonably should have known that their conduct was prohibited shall be punished by a fine of not more than five hundred dollars for a first offense. For a second or subsequent offense, a violation of this section shall be punished by a fine of not more than one thousand dollars or incarceration of up to thirty days in jail or by both such fine and incarceration. Any violation of the provisions of this section by a person who did not know or could not reasonably have known that their conduct was prohibited shall be treated as a civil infraction and punished by a fine of not more than two hundred and fifty dollars.

E. As used in this section:

(1) "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.

(2) "Purchase" and "Sell" mean the transfer of ownership of a firearm in consideration of payment or promise of payment.

SECTION 3. Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Chapter or any part thereof. The [Legislative Body] hereby declares that it would have adopted this Chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

Waiting Period

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF XXXX TO REQUIRE A WAITING PERIOD PRIOR TO THE SALE OF FIREARMS

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings

Whereas, laws imposing a waiting period prior to the sale of a firearm give law enforcement officials adequate time to perform a thorough background check on the prospective purchaser, and provide a “cooling off” period to help guard against impulsive acts of violence and prevent firearm suicides.

Whereas, in Boulder County, an average of 26 people per year use a firearm to end their own lives. These suicides are not inevitable. Suicide attempts can be impulsive, singular episodes that involve little planning. One study found that among people who made near-lethal suicide attempts, 24% took less than 5 minutes between the decision to kill themselves and the actual attempt, and 71% took less than 1 hour.²

Whereas, a firearm waiting period law helps prevent suicide by creating a buffer between the time of gun purchase and gun acquisition, giving someone in crisis the chance to let the feeling pass or seek help instead of picking up a firearm.

Whereas, while some suicidal people who are unable to access a gun may try to kill themselves by other means, the most common alternative methods of suicide are far less lethal, so more survivable, than suicide by firearm. Approximately 90% of gun suicide attempts end in death, while 4% of suicide attempts across all other methods end in death.³ The vast majority of people (90%) who survive a suicide attempt recover from their mental health crisis and do not go on to die by suicide.⁴ But because firearms are so lethal, many of those who pick up a gun do not get the chance to survive and recover.

² Eberhard A. Deisenhammer, et al., “The Duration of the Suicidal Process: How Much Time is Left for Intervention Between Consideration and Accomplishment of a Suicide Attempt?,” *The Journal of Clinical Psychiatry* 70, no. 1 (2008); T. R. Simon, et al., “Characteristics of Impulsive Suicide Attempts and Attempters,” *Suicide and Life Threatening Behavior* 32 no. 1 (Suppl.) (2001): 49–59;

³ Andrew Conner, Deborah Azrael, and Matthew Miller, “Suicide Case-Fatality Rates in the United States, 2007 to 2014: A Nationwide Population-Based Study,” *Annals of Internal Medicine* 171, no. 2 (2019): 885–95, <https://doi.org/10.7326/M19-1324>.

⁴ David Owens, Judith Horrocks, and Allan House, “Fatal and Non-Fatal Repetition of Self-Harm: Systematic Review,” *British Journal of Psychiatry* 181, no. 3 (2002): 193–199; see also “Attempters’ Longterm Survival,” Harvard TH Chan School of Public Health, Means Matter, <http://www.hsph.harvard.edu/means-matter/means-matter/survival>.

Whereas, waiting period laws are associated with reduced rates of firearm suicide. These laws have been shown to reduce firearm suicides by up to 11%.⁵ Waiting periods have also been shown to prevent suicide among older populations (who are generally at a heightened risk of attempting suicide). One study found that the “reduction in suicides for persons aged 55 years or older was much stronger in states that had instituted both waiting periods and background checks than in states that only changed background check requirements.”⁶

Whereas, waiting periods have been shown to have a protective effect specifically for people of color and people living in urban areas. One study examined the impact of repealing a handgun waiting period law in Wisconsin, which was in place until 2015. The study found that the repeal increased fatal firearm-related suicides for people of color by nearly 2 times the rate than pre-repeal. Additionally, researchers found that urban residents had 1.38 times the rate of death by firearm suicide than non-urban residents of the state post-repeal.”⁷

Whereas, waiting period laws also help reduce gun homicides by providing a cooling-off period that can interrupt some of the factors that incite violence against others, including family violence and intimate partner violence.⁸ One study found that waiting periods that delay firearm purchases by a few days can reduce gun homicides by 17%.⁹

Whereas, there is no federal waiting period. Nine states and the District of Columbia currently have waiting periods that apply to the purchase of some or all firearms—but Colorado is not among them. California,¹⁰ Hawaii,¹¹ Illinois,¹² Rhode Island,¹³ Florida,¹⁴ and the District of Columbia¹⁵ impose a statutory waiting period on all firearm purchases. Minnesota¹⁶ imposes five to seven-day waiting periods on purchases of handguns and assault weapons while Washington¹⁷ imposes 10 day waiting periods for semiautomatic rifles. New Jersey¹⁸ and

⁵ Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *Proceedings of the National Academy of Sciences* 114, no. 46 (2017): 12162–12165; see also Michael D. Anestis and Joye C. Anestis, “Suicide Rates and State Laws Regulating Access and Exposure to Handguns,” *American Journal of Public Health* 105, no. 10 (2015): 2049–2058.

⁶ Jens Ludwig & Philip Cook, “Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act,” *JAMA* (Aug. 2, 2000) 284(5):585-91.

⁷ Zachary R. Dunton, et al., “The Association Between Repealing the 48-Hour Mandatory Waiting Period on Handgun Purchases and Suicide Rates in Wisconsin,” *Archives of Suicide Research* (2021).

⁸ J. Davidson, K. R. Scherer, and H. H. Goldsmith, “The Role of Affect in Decision Making,” *Handbook of Affective Sciences* (2003): 619–642; David Card and Gordon B. Dahl, “Family Violence and Football: The Effect of Unexpected Emotional Cues on Violent Behavior,” *The Quarterly Journal of Economics* 126, no. 1 (2011): 103–143.

⁹ Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *Proceedings of the National Academy of Sciences* 114, no. 46 (2017): 12162–12165.

¹⁰ Cal. Penal Code §§ 26815(a), 26950-27140, 27540(a), 27600-27750.

¹¹ Haw. Rev. Stat. §§ 134-2(e), 134-3(a).

¹² 720 Ill. Comp. Stat. 5/24-3(A)(g).

¹³ R.I. Gen. Laws §§ 11-47-35(a)(1), 11-47-35.1, 11-47-35.2.

¹⁴ Fla. Const. art. I, § 8(b); Fla. Stat. § 790.0655.

¹⁵ D.C. Code Ann. § 22-4508.

¹⁶ Minn. Stat. § 624.7132, subd. 4.

¹⁷ Rev. Code Wash. § 9.41.092

¹⁸ N.J. Rev. Stat. §§ 2C:58-2a(5)(a), 2C:58-3i.

Maryland¹⁹ have waiting periods for handgun purchases only. These waiting periods vary in length from 72 hours (for long guns in Illinois) to 14 days (for a permit to purchase a firearm in Hawaii).

Whereas, the American public overwhelmingly supports laws imposing a waiting period prior to the sale of a firearm. A 2020 study found that Americans routinely underestimate public support for gun safety measures including waiting periods: 85% of non-gun owners and 72% of gun owners support mandatory waiting periods for firearm purchases.²⁰ Another poll from 2017, which asked participants about their support for a lengthy waiting period of 30 days, found that 75% of Americans favor a 30-day waiting period for firearm purchases.²¹

Whereas, waiting periods are consistent with the Second Amendment and fit squarely within the American tradition of ensuring responsible gun ownership through reasonable firearm regulations. The U.S. Court of Appeals for the Ninth Circuit upheld California’s 10-day waiting period law against a constitutional challenge in *Silvester v. Harris*, 843 F.3d 816, 819, 828 (9th Cir. 2016), pointing out that there is “nothing new in having to wait for the delivery of a weapon. Before the age of superstores and superhighways, most folks could not expect to take possession of a firearm immediately upon deciding to purchase one. As a purely practical matter, delivery took time.” *Id.* at 828.

Whereas, courts including the U.S. Supreme Court have approved public safety or public welfare regulations that delay the exercise of other constitutionally protected rights, like the First Amendment. For example, in *Cox v. New Hampshire*, 312 U.S. 569 (1941), the Supreme Court upheld a law requiring a religious group to take the time to obtain a permit before holding a parade on a public street, finding the permit requirement was a valid way to maintain public order that did not infringe the religious group’s First Amendment rights. Courts have also upheld state marriage license requirements and voter registration requirements, which can delay one’s ability to marry or vote, even though these are recognized as essential constitutional rights. A waiting period to exercise Second Amendment rights—which is a powerful and necessary tool to help save lives from gun violence and suicide—is constitutional, just like these other policies.

Whereas, it is the purpose and intent of the [Legislative Body] in enacting this Chapter to impose a waiting period prior to sale of a firearm in [Jurisdiction]. The [Legislative Body] believes that a waiting period is needed to help improve public safety and reduce the risk of suicide and impulsive acts of violence. The intent and effect of the waiting period is to create a cooling-off period that reduces opportunities for impulsive acts of violence and self-harm.

¹⁹ Md. Code Ann., Pub. Safety §§ 5-123(a), 5-124(a).

²⁰ Graham Dixon et al., “Public Opinion Perceptions, Private Support, and Public Actions of US Adults Regarding Gun Safety Policy,” *JAMA* (Dec. 22, 2020), 3(12):e2029571.

²¹ Gallup, “Americans Widely Support Tighter Regulations on Gun Sales” (Oct. 17, 2017), <https://news.gallup.com/poll/220637/americans-widely-support-tighter-regulations-gun-sales.aspx>.

SECTION 2. Definitions

As used in this Chapter:

- (a) “Firearm” has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.
- (b) “Licensed firearms dealer” means any person who is a licensed importer, licensed manufacturer, or dealer licensed pursuant to 18 U.S.C. sec. 923, as amended, as a federally licensed firearms dealer and has obtained all necessary state and local licenses to sell firearms in the state.
- (c) “Person” means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company or other entity.
- (d) “Law enforcement officer” means any person employed by the United States, or a state, county, city, municipality, village, township, or other political subdivision as a police officer, peace officer, or in some like position involving the enforcement of the law and protection of the public interest.

SECTION 3. Waiting period prior to firearm purchase

No licensed firearms dealer shall deliver a firearm, and no person shall take possession of a firearm from a licensed dealer, until both of the following have occurred:

- (a) [Ten (10)]²² days have elapsed from the date the dealer initiated the Colorado Bureau of Investigation check of the purchaser pursuant to C.R.S. 24-33.5-424; and
- (b) The dealer has received approval for the firearms transfer as required by C.R.S 18-12-112.5.

SECTION 4. Exceptions

Section 3 does not apply to:

- (a) Any law enforcement or corrections agency, or law enforcement or corrections officer acting within the course and scope of his or her employment or official duties;
- (b) A United States Marshal or member of the Armed Forces of the United States or the National Guard, or a federal official transferring firearms as required in the operation of his or her official duties;

²² Localities may opt for a shorter waiting period.

- (c) Licensed firearms manufacturers, importers or dealers, while engaged in the course and scope of their activities as licensees, provided that the transfers are between licensees and all such licensees are properly licensed under federal, state and local law;
- (d) A gunsmith who receives a firearm for service or repair;
- (e) A properly licensed private security firm, or private security personnel, who acquires the firearms for use in the course and scope of employment; or
- (f) A common carrier, warehouseman, or other person engaged in the business of transporting or storing goods, to the extent that the possession or receipt of any firearm, or having on or about the person of any firearm, is in the ordinary course of business and not for the personal use of any such person.

SECTION 5. Penalties

- (a) Anyone violating the provisions of this Chapter by a person who knew or reasonably should have known that their conduct was prohibited shall be punished as follows:
 - (1) For a first offense, by a fine not to exceed two hundred and fifty dollars.²³
 - (2) For a second or subsequent offense, by a fine not to exceed one thousand dollars or to a period of imprisonment not to exceed thirty days or both.
- (b) Any violation of the provisions of this section by a person who did not know or could not reasonably have known that their conduct was prohibited shall be treated as a civil infraction and punished by a fine of not more than one hundred dollars.

SECTION 6. Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Chapter or any part thereof. The [Legislative Body] hereby declares that it would have adopted this Chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

²³ Senate Bill 256 limits the amount

Assault Weapons, Large Capacity Magazines, and Trigger Activators

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF XXXX TO REGULATE THE SALE AND POSSESSION OF ASSAULT WEAPONS, LARGE CAPACITY MAGAZINES, AND TRIGGER ACTIVATORS

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings

Whereas, gun violence poses a grave public safety threat in [County/City], where [#] people lost their lives to firearms [in Year, or between Year Range]. Statewide in Colorado, guns are the leading cause of death for children ages 1–17 and cause the deaths of nearly 2/3 of women who are killed by intimate partners. Gun violence takes a particular toll on Black and Hispanic men, who make up less than 13% of Colorado’s population, but account for over 48% of gun homicide victims.²⁴

Whereas, Colorado has the 18th-highest gun death rate among the 50 states,²⁵ and saw elevated levels of mass shootings in 2020 and early 2021, when a mass shooter killed 10 people at King Soopers in Boulder using an assault weapon and large-capacity magazines.

Whereas, assault weapons are semiautomatic firearms with large ammunition capacities and specific features that are useful in military and criminal applications yet are unnecessary in shooting sports or self-defense.²⁶ These weapons include semiautomatic assault rifles that have the ability to accept large-capacity magazines holding up to 100 rounds, and with features that enhance concealability, control, and the ability to fire many dozens of rounds without pause. They also include assault pistols and high-capacity “combat” shotguns.

[If relevant to adopting County/City: Whereas, County/City includes some areas that have a higher population density than more rural parts of the state, and are characterized by the presence of traffic and commuters, business districts, employment offices, higher education campuses, and entertainment and nightlife venues. These areas have a greater number of potential targets for large-scale school and workplace violence, mass shootings, and interpersonal gun violence, and therefore, these demographic attributes create a special need to restrict weapons that facilitate mass shootings, including assault weapons, trigger activators, and large-capacity magazines.]

²⁴ Population and death estimates calculated from Centers for Disease Control and Prevention, Wide-ranging Online Data for Epidemiologic Research (WONDER), <https://wonder.cdc.gov/> (2015-2019 average).

²⁵ Age-adjusted gun death rate for 2019 available at Centers for Disease Control and Prevention, Wide-ranging Online Data for Epidemiologic Research (WONDER), <https://wonder.cdc.gov/>.

²⁶ Christopher S. Koper, Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources, 95 J. Urban Health 313, 313-14 (2018).

Findings on Assault Weapons (Assault Rifles, Pistols and Shotguns)

Whereas, assault rifles are semiautomatic versions of firearms originally deployed in Vietnam. It was not until decades later that gunmakers launched ad campaigns to create a civilian market for military-grade “weapons that, not long ago, few serious gun enthusiasts would buy.”²⁷ Although these semiautomatic versions of military firearms are marketed to civilians, they are military-grade weapons: the U.S. military calls semiautomatic rifle fire the “most important firing technique during fast-moving, modern combat” and “most accurate technique of placing a large volume of fire.”²⁸ These rifles fire bullets with a velocity three times greater than 9mm handguns, leaving “softball-sized exit wounds” much more likely to kill than to incapacitate victims.²⁹

Whereas, perpetrators of the five deadliest shootings in modern U.S. history—Las Vegas, Orlando, Sandy Hook, Sutherland Springs, and El Paso—used assault rifles with military-style features. Colorado’s deadliest mass shooters have also used assault rifles or pistols, including the Aurora movie theater shooter, who used an assault rifle and a 100-round drum magazine; and the King Soopers shooter, who used an AR-style pistol that an ATF expert described as “made for the military and designed for short-range combat.”³⁰

Whereas, researchers have found that firearm purchasers with criminal histories are more likely to buy assault weapons, and that probability was even higher if purchasers have more serious criminal histories.³¹ These weapons are regularly used in violent crime beyond mass shootings, including violence against police officers³² and by street groups involved in the drug trade.³³ Assault weapons are trafficked in large volumes across the border: semiautomatic assault rifles are the most sought after and widely used weapons by Mexican drug trafficking organizations.³⁴

Whereas, assault weapons are inappropriate for civilian use due to their unique features that allow shooters to rapidly fire a large number of rounds—more than is ever needed for lawful self-defense—while maintaining control of the firearm in order to accurately target and kill more victims. Specific features that allow an assault weapon to perform this way are:

²⁷ Natasha Singer, *The Most Wanted Gun in America*, N.Y. Times, Feb. 2, 2013.

²⁸ Department of the Army, *Rifle Marksmanship: A Guide to M16- and M4-Series Weapons* (2011).

²⁹ Heather Sher, *What I Saw Treating the Victims from Parkland Should Change the Debate on Guns*, *The Atlantic Weekly* (Feb. 22, 2018); Alex Daugherty, *Mangled Tissue and Softball-Sized Exit Wounds: Why AR-15 Injuries Are So Devastating*, *Miami Herald* (Feb. 24, 2018).

³⁰ Elise Schmelzer, “Boulder Shooting Suspect’s Gun Would’ve Been Illegal Under City’s Now-Void Assault-Weapon Ban,” *Denver Post*, Mar. 23, 2021.

³¹ Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, *Jerry Lee Ctr. Of Criminology* (June 2004) at 17–18 (citing Wintemute et al., *Criminal Activity and Assault-Type Handguns: A Study of Young Adults*, *Ann. Emerg. Med.* (July 1998)).

³² *Rupp v. Becerra*, 401 F. Supp. 3d 978, 990-92 (C.D. Cal. 2019) (citing lawmaker and law enforcement testimony regarding use of assault weapons by criminal gangs, hate groups, and against police officers).

³³ See generally, e.g., *Kasler v. Lockyer*, 23 Cal. 4th 472, 484-85 (Cal. 2000).

³⁴ Colby Goodman & Michel Marizco, *U.S. Firearms Trafficking to Mexico: New Data and Insights Illuminate Key Trends and Challenges*, in *SHARED RESPONSIBILITY: U.S.-MEXICO POLICY OPTIONS FOR CONFRONTING ORGANIZED CRIME* 185 (Eric L. Olson et al. eds., 2010).

- Detachable magazine: Firearms that can accept detachable magazines allow a shooter to attach magazines of any size available for the firearm and quickly reload the weapon with pre-filled magazines. In some cases, magazines can hold as many as 100 rounds, but even smaller detachable magazines can greatly increase firepower.
- Pistol grip: To counteract the movement that occurs during rapid fire, assault weapons are typically equipped with features that allow the shooter to steady the weapon. A pistol grip, not typically found on a sporting rifle or shotgun (which would be fired from the shoulder), allows the shooter to control the firearm more accurately—and lethally—by maneuvering the weapon or shooting from the hip during rapid fire;
- Thumbhole stock: As with a pistol grip, a thumbhole stock allows the shooter to control the firearm during rapid fire;
- Folding or telescoping stock: A folding or telescoping stock folds or collapses to make the weapon easier to conceal and transport;
- Flash Suppressor: A flash suppressor enables a shooter to mask their location by reducing the visible signature of the firearm when it fires; and
- Barrel shroud: As with a pistol grip and thumbhole stock, a barrel shroud allows the shooter to steady the firearm during rapid fire. The shroud encircles the barrel of the firearm and allows the shooter to hold it without getting burned.

Whereas, in addition to military-style assault rifles, gun manufacturers have also begun marketing AK-style and AR-style pistols with the same features that enable a shooter to continue shooting the weapon numerous times without losing control over it. These pistols are also designed to fire rifle rounds capable of penetrating body armor, but which are concealable like handguns. These armor-piercing assault pistols are a clear attempt to circumvent federal laws restricting short-barreled rifles.

Whereas, AK-style and AR-style pistols pose a similar if not identical threat to public safety as do short-barreled rifles, because of their short length and ability to fire rifle rounds that can penetrate ballistic resistant vests worn by patrol officers. Because their lethality is on par with highly restricted short-barreled rifles, yet they have almost entirely evaded regulation, armor-piercing, concealable firearms have been used in murders across the country, including at the 2021 King Soopers shooting in Boulder and at the 2019 mass shooting in Dayton, Ohio.

Whereas, high-capacity “tactical” or “combat” shotguns are assault weapons modeled after firearms originally used for riot control by foreign law enforcement. After the Armsel Striker, popular in South Africa and marketed in the U.S. as the Street Sweeper, was designated a “destructive device” under the National Firearms Act, gunmakers designed workaround weapons as powerful as the Street Sweeper that inflict catastrophic injuries by rapidly firing a dozen or more shotgun slugs. These weapons are unfit for lawful sporting or self-defense uses.

Findings on Rapid-Fire Trigger Activators

Whereas, at the 2017 Mandalay Bay shooting in Las Vegas, Nevada, the shooter

modified semiautomatic assault rifles with bump stocks so they could fire at speeds approaching fully automatic machine guns. Bump stocks, as well as binary triggers, burst triggers, rotating trigger cranks, and other after-market rapid-fire trigger activators, are a blatant attempt to evade longstanding restrictions on machine guns. There is no reasonable dispute that these devices enable firing many rounds per second and serve no lawful self-defense function.

Whereas, several years after the Las Vegas shooting drew attention to the dangers of bump stocks that give shooters automatic firepower, the ATF adopted a federal rule effectively banning their possession. However, state and local action is needed to restrict other rapid-fire trigger activators, and because legal challenges to the federal bump stock rule are still pending.

Findings on Large-Capacity Magazines

Whereas, large-capacity magazines are ammunition feeding devices that hold more than 10 rounds and may hold as many as 100 rounds of ammunition. Mass shootings that involve large-capacity magazines result in nearly five times as many people shot compared to mass shootings that do not involve high capacity magazines.³⁵ These magazines increase the number of victims injured and killed by enabling shooters to fire more rounds before reloading—a critical moment when many criminal shooters are stopped before they can further increase their death tolls.³⁶

Whereas, large-capacity magazines also make gun violence far more lethal in situations other than mass shootings, including interpersonal gun violence and shootings by organized crime or street groups. Firearms equipped with large-capacity magazines account for 22 to 36% of crime guns in most places,³⁷ and research shows upwards of 40% of crime guns used in serious violent crimes, including murders of police officers, are equipped with large-capacity magazines.³⁸

Whereas, the County/City governing body is unaware of any reported incidents (in County/City or nationally) where someone engaged in self-defense fired more than 10 rounds of a large-capacity magazine to fend off an attack. Despite analyzing several decades of

³⁵ “Twelve Years of Mass Shootings in the United States,” Everytown for Gun Safety Support Fund, June 4, 2021, <https://everytownresearch.org/maps/mass-shootings-in-america-2009-2019/#mass-shootings-involving-assault-weapons-or-high-capacity-magazines-were-far-deadlier>.

³⁶ Survivors of the Borderline Bar & Grill showing in Thousand Oaks, California shooting jumped out a window to safety when someone in the crowd yelled, “He’s reloading!” Veronica Miracle, Thousand Oaks Mass Shooting Survivor: “I Heard Somebody Yell, ‘He’s Reloading,’” ABC News, Nov. 8, 2018. In Parkland, eight students were able to flee down a stairwell during an approximately 13-second pause while the shooter retrieved and inserted a new magazine. See Marjory Stoneman Douglas High School Public Safety Commission Initial Report, Fla. Dep’t of Law Enforcement, at 32 (Jan. 2, 2019). In Newtown, “nine children were able to run from a classroom while the gunman paused to change out a large-capacity thirty-round magazine.” Kolbe v. Hogan, 849 F.3d 114, 128 (4th Cir. 2017) (en banc). Other examples are discussed in *Colorado Outfitters Association v. Hickenlooper*, 24 F. Supp. 3d 1050, 1072-73 (D. Colo. 2014), *vacated on other grounds*, 823 F.3d 537 (10th Cir. Colo., Mar. 22, 2016).

³⁷ Christopher S. Koper, Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources, 95 J. Urban Health 313, 319 (2018).

³⁸ *Id.* at 317.

evidence about defensive shootings, gun-rights groups raising legal challenges to magazine restrictions in other jurisdictions have been unable to identify a single incident anywhere in the nation in which someone needed to fire more than ten rounds at once in lawful self-defense.³⁹ Conversely, numerous high-profile mass shootings nationally and within Colorado have been carried out with LCMs, including the Boulder King Soopers shooting and the Aurora movie theater shooting. Nationally, the five deadliest mass shootings of the last decade all involved the use of LCMs holding more than 10 rounds of ammunition.⁴⁰

Findings on Effectiveness of Legislation and Public Opinion

Whereas, in 1994, a federal ban on the manufacture, transfer, and possession of assault weapons and the transfer and possession of large-capacity magazines was enacted.⁴¹ The law included a ten-year sunset provision. In 2004, Congress allowed the law to expire.

Whereas, studies show that the federal assault weapon ban resulted in a marked decrease in the use of assault weapons and large-capacity magazines in crime. One study found that in several major cities, the share of recovered crime guns that were assault weapons declined by 32% to 40% after the federal ban was adopted.⁴² Another study in Virginia found a clear decline in the percentage of crime guns that were equipped with large-capacity magazines after the federal ban was enacted. The percentage of guns seized by Virginia police reached a low of 10% in 2004 and then steadily climbed after Congress allowed the ban to expire; by 2010, the percentage was close to 22%.⁴³

Whereas, the federal law restricting assault weapon and large-capacity magazines also had a significant protective effect in lowering mass shooting fatalities. During the 10-year period the law was in effect, mass shooting fatalities were 70% less likely to occur compared to when the ban wasn't in effect.⁴⁴ In addition, the number of high-fatality mass shootings fell by 37%, and the number of people dying in such shootings fell by 43%. After the ban lapsed, there was a 183% increase in high-fatality mass shootings and a 239% increase in deaths from such shootings.⁴⁵

³⁹ E.g., *State v. Misch*, 2021 VT 10, ¶ 84 (Vt. 2021); *Worman v. Healey*, 922 F.3d 26, 37 (1st Cir. 2019); *Kolbe v. Hogan*, 849 F.3d 114, 127 (4th Cir. 2017) (en banc).

⁴⁰ These are the mass shootings in Las Vegas, NV (58 deaths); Orlando, FL (49 deaths); Newtown, CT (27 deaths); Sutherland Springs, TX (25 deaths); and El Paso, TX (23 deaths).

⁴¹ 18 U.S.C. § 922(v)(1).

⁴² Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to the U.S. Department of Justice (June 2004), at 49.

⁴³ *About the Project: The Hidden Life of Guns*, Wash. Post, Jan. 22, 2011; David Fallis & James Grimaldi, *Virginia Data Show Drop in Criminal Firepower During Assault Gun Ban*, Wash. Post, Jan. 23, 2011.

⁴⁴ Charles DiMaggio et al., "Changes in US Mass Shooting Deaths Associated with the 1994–2004 Federal Assault Weapons Ban: Analysis of Open-source Data," *J. Trauma & Acute Care Surg.* 86, no. 1 (2019): 11–19.

⁴⁵ In this analysis and the Klarevas study described below, researchers defined high-fatality mass shootings as those in which six or more individuals were killed. Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (Amherst, New York: Prometheus Books, 2016).

Whereas, state-level prohibitions on large-capacity magazines have been shown to reduce the frequency and lethality of the deadliest mass shootings—strong evidence that regional and local legislation can be effective even absent a federal ban. A peer-reviewed study published in the American Journal of Public Health found that “states without an LCM ban experienced significantly more high-fatality mass shootings and a higher death rate from such incidents,” seeing more than double the number of such shootings and three times the number of deaths from high-fatality mass shootings, as compared to states that ban large-capacity magazines.⁴⁶

Whereas, a majority of Americans support prohibiting military-style firearms and magazines. A Quinnipiac poll conducted in February 2018 found that 67% of the public, including nearly half of Republicans, supports a ban on the sale of assault weapons.⁴⁷ Polling consistently shows that a majority of Americans—nearly 70%—support a ban on large-capacity magazines.⁴⁸

Whereas, contrary to the gun industry’s unsupported claims that the AR-15 is one of America’s most popular firearms, survey data and gun-industry supplied statistics suggest that, at most, only a small fraction of U.S. gun owners possess semiautomatic assault rifles⁴⁹ and private ownership of these weapons is concentrated in the hands of super-owners who have 10 or more firearms.⁵⁰ Similar claims about the ubiquity of large-capacity magazines is contradicted by the fact that most magazines for handguns—the “quintessential self-defense weapon,” see *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008)—hold 10 rounds or fewer.

Whereas, because assault weapons, trigger activators, and large-capacity magazines are designed for and have repeatedly been used to inflict mass casualties and enable other violent crimes, and the fact that these weapons and accessories are ill-suited to and unnecessary for responsible self-defense, and are not chosen or used by most law-abiding gun owners for this purpose, the County/City governing body finds that it is in the best interests of the health, safety, and welfare of County/City residents to prohibit the possession, sale, manufacture, and transfer of assault weapons, rapid-fire trigger activators, and large-capacity magazines.

Therefore, the County/City governing body hereby adopts the following:

SECTION 2. Definitions

⁴⁶ Louis Klarevas, et al., The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990-2017, 109 Am. J. Pub. Health 12:1754 (Dec. 1, 2019).

⁴⁷ See “US Support For Gun Control Tops 2-1, Highest Ever, Quinnipiac University National Poll Finds; Let Dreamers Stay, 80 Percent Of Voters Say,” Quinnipiac University Poll, February 20, 2018.

⁴⁸ “Gun Policy Remains Divisive, But Several Proposals Still Draw Bipartisan Support,” Pew, Oct. 18, 2018.

⁴⁹ See, e.g., *Friedman v. City of Highland Park*, 784 F.3d 406, 409 (7th Cir. 2015).

⁵⁰ Deborah Azrael et al, “The Stock and Flow of U.S. Firearms: Results from the 2015 National Firearms Survey” (Oct. 2017), at p. 43 (half of all guns in America are owned by just 3% of the adult population and owners who are in possession of 10 or more firearms account for 39% of guns in America).

(a) "Assault weapon" means any:

(1) Semiautomatic center-fire rifle that has the capacity to accept a detachable magazine and has one or more of the following:

- (i) A pistol grip or thumbhole stock;
- (ii) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
- (iii) A folding or telescoping stock;
- (iv) A flash suppressor;
- (v) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel.

(2) Semiautomatic center-fire pistol that has the capacity to accept a detachable ammunition feeding device and any one of the following:

- (i) A threaded barrel;
- (ii) A second pistol grip, or second other feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
- (iii) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
- (iv) A flash suppressor;
- (v) The capacity to accept a detachable ammunition feeding device at some location outside of the pistol grip;
- (vi) A manufactured weight of 50 ounces or more when unloaded; or
- (vii) A buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip.

(3) Semiautomatic center-fire pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

(4) Shotgun with a revolving cylinder; or any semiautomatic shotgun that has one or more of the following features:

- (i) A pistol grip or thumbhole stock;
- (ii) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
- (iii) A folding or telescoping stock;
- (iv) A fixed magazine capacity in excess of 5 rounds; or
- (v) An ability to accept a detachable magazine.

(5) Any firearm which has been modified to be operable as an assault weapon as defined herein;

(6) Any part or combination of parts designed or intended to convert a firearm into an assault weapon, including any combination of parts from which an assault weapon may be readily assembled if those parts are in the possession or under the control of the same person.

(b) "Assault weapon" does not include any firearm that has been made permanently inoperable, an antique firearm manufactured before 1899, or a replica of an antique firearm.

(c) "Large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.
- (2) A .22 caliber tube ammunition feeding device.
- (3) A tubular magazine that is contained in a lever-action firearm.

(d) "Rapid-fire trigger activator" means any device, including a removable manual or power-driven activating device, constructed so that, when installed in or attached to a semiautomatic firearm:

- (1) the rate at which the trigger is activated substantially increases; or
- (2) the rate of fire substantially increases.

SECTION 3. Prohibitions

(a) No person, corporation or other entity in the County/City may manufacture, import, possess, purchase, sell or transfer any assault weapon, large-capacity magazine, or rapid-fire trigger activator.

(b) Section (a) shall not apply to:

- (1) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to acquire or possess an assault weapon and/or large-capacity magazine, and does so while acting within the scope of his or her duties; or
- (2) The manufacture of an assault weapon or large-capacity magazine for the purpose of sale to any branch of the armed forces of the United States, or to a law enforcement agency in this County/City for use by that agency or its employees, provided the manufacturer is properly licensed under federal, state and local laws.
- (3) The sale or transfer of an assault weapon or large-capacity magazine by a dealer that is properly licensed under federal, state and local laws to any branch of the armed forces of the United States, or to a law enforcement agency in this County/City for use by that agency or its employees for law enforcement purposes.

[OPTION 1 – BANNING ASSAULT WEAPONS AND LCMs ALREADY IN CIRCULATION: SECTION (3)(c)]

(c) Any person who, prior to the effective date of this law, was legally in possession of an assault weapon or large-capacity magazine shall have 90 days from such effective date to do any of the following without being subject to prosecution:

- (1) Remove the assault weapon or large-capacity magazine from the County/City;
- (2) Render the assault weapon permanently inoperable, or permanently alter the large-capacity magazine so that it cannot accommodate more than 10 rounds; or
- (3) Surrender the assault weapon or large-capacity magazine to the [County/City law enforcement agency] for destruction.

[OPTION 2 – CERTIFICATION OF ASSAULT WEAPONS ALREADY IN CIRCULATION: SECTION (3)(c) THROUGH (k)]

(c) Any person who, prior to the effective date of this law, was legally in possession of an assault weapon or large-capacity magazine shall have 90 days from such effective date to do any of the following without being subject to prosecution:

- (1) Remove the assault weapon or large-capacity magazine from the County/City;

- (2) Render the assault weapon permanently inoperable, or permanently alter the large-capacity magazine so that it cannot accommodate more than 10 rounds;
- (4) Surrender the assault weapon or large-capacity magazine to the [County/City law enforcement agency] for destruction; or
- (5) If eligible, obtain a certificate for the assault weapon as provided in subsection (d).

(d) Any person seeking to certify an assault weapon that they legally possessed prior to the effective date of this law must comply with the following requirements:

- (1) Submit to a background check conducted by a law enforcement agency to confirm that they are not prohibited to possess a firearm pursuant to 18 U.S.C. § 922 or C.R.S. § 18-12-108;
- (2) Unless the person is currently prohibited by law from possessing a firearm, certify the assault weapon with the [County/City law enforcement agency] within 90 days after the effective date of this law;
- (3) No person prohibited by state or federal law from possessing a firearm shall be issued a certificate.

(e) Any person issued a certificate for an assault weapon that they legally possessed prior to the effective date of this law shall:

- (1) Annually renew the certification, subject to completion of a new background check.
- (2) Possess the assault weapon only on property owned or immediately controlled by the person, or while on the premises of a licensed gunsmith for the purpose of lawful repair, or while engaged in the legal use of the assault weapon at a duly licensed firing range, or while traveling to or from these locations, provided that the assault weapon is stored unloaded in a locked container during transport. The term "locked container" does not include the utility compartment, glove compartment, or trunk of a motor vehicle.
- (3) Comply with C.R.S. § 18-12-113 governing the reporting of the loss or theft of a certified assault weapon to the appropriate law enforcement agency.

(f) If a certified assault weapon is used in the commission of a crime, the certified owner shall be civilly liable for any damages resulting from that crime. Liability pursuant to this subsection shall not apply if the assault weapon was stolen and the certified owner reported its theft to law enforcement in compliance with C.R.S. § 18-12-113.

(g) Certified assault weapons may not be purchased, sold or transferred in [County/City], except for transfer to a licensed gunsmith for the purpose of lawful repair, or transfer to [County/City law enforcement agency] for the purpose of surrendering the assault weapon for destruction.

(h) Persons acquiring an assault weapon by inheritance, bequest, or succession shall, within 90 days of acquiring title, do one of the following:

(1) Modify the assault weapon to render it permanently inoperable;

(2) Surrender the assault weapon to the [County/City law enforcement agency] for destruction;

(3) Transfer the assault weapon to a firearms dealer who is properly licensed under federal, state and local laws; or

(4) Permanently remove the assault weapon from the [County/City].

(i) The certified owner of an assault weapon or weapons may not purchase or possess additional assault weapons that were not certified within the 90-day certification period.

(j) The [County/City manager, law enforcement agency, or other appropriate official or agency] shall issue to qualified applicants two original copies of each certificate issued. The [County/City] shall not maintain any records of certificates issued. The person receiving the certificate shall keep one copy with the weapon certified and the second copy in a secure place to replace the certificate maintained with the weapon.

(k) The [County/City manager, law enforcement agency, or other appropriate official or agency] may charge a fee for each certificate sufficient to cover the costs of administering the certificate program.

SECTION 4. Penalties

Any violation of section 3 by a person who knew or reasonably should have known that their conduct was prohibited shall be punished by a fine of not more than one thousand dollars for a first offense, and by a fine of not more than one thousand dollars or incarceration of up to one year in jail or by both such fine and incarceration for a second or subsequent offense. Any violation of the provisions of this section by a person who did not know or could not reasonably have known that their conduct was prohibited shall be treated as a civil infraction and punished by a fine of not more than [maximum fine for infractions typically used in County/City].

SECTION 5. Severability

If any provision or term of this Chapter is for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Chapter or any part thereof. The County/City hereby declares that it would have adopted this Chapter notwithstanding the unconstitutionality, invalidity or ineffectiveness of any one or more of its articles, sections, subsections, sentences or clauses.

Firearms Dealers and Ammunition Sellers

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF XXXX TO REGULATE FIREARM AND AMMUNITION SALES

Be it Enacted By the City/County of _____, COLORADO

CHAPTER 1 REGULATION OF FIREARMS DEALERS AND AMMUNITION SELLERS

ARTICLE 1 SALE OF FIREARMS AND AMMUNITION

- Sec. 1 Definitions
- Sec. 2 Law enforcement permit
- Sec. 3 Application for permit
- Sec. 4 Investigation by Chief of Police/Sheriff^{51*}
- Sec. 5 Grounds for permit denial or revocation
- Sec. 6 Hearing for permit denial or revocation
- Sec. 7 Report of permit revocation to federal and state authorities
- Sec. 8 Issuance of law enforcement permit – Duration
- Sec. 9 Nonassignability
- Sec. 10 Display of law enforcement permit
- Sec. 11 On-site security
- Sec. 12 Liability insurance
- Sec. 13 Duties upon sale, lease or transfer
- Sec. 14 Sales records and reports
- Sec. 15 Inventory reports
- Sec. 16 Law enforcement inspections
- Sec. 17 Reporting of Lost or Stolen Firearms
- Sec. 18 Restricted admittance of minors and other prohibited
- Sec. 19 Posted warnings
- Sec. 20 Violations
- Sec. 21 Compliance by existing businesses
- Sec. 22 Civil liability
- Sec. 23 Severability clause

ARTICLE 2 LAND USE PERMITS

- Sec. 1 Firearm and ammunition sales
- Sec. 2 Nonconforming uses

^{51*} Where the words "Chief of Police/Sheriff," "City/County" or similar variations appear, simply select the appropriate designation for your jurisdiction.

Sec. 3 Severability clause

Findings

Findings Regarding Gun Violence in General

Whereas, between 2014 and 2019, an average of 782 people died from firearm-related injuries in Colorado a year.⁵²

Whereas, in 2019, 185 homicides were committed with a firearm in Colorado, comprising 68% of all homicides committed that year.⁵³ Over the previous four years, 225 homicide victims in Colorado were youth under the age of 25.⁵⁴

Findings Regarding Current Federal Regulation of Firearms Dealers

Whereas, federal regulation of firearms dealers and ammunition sellers is currently inadequate to protect the public safety.

Whereas, although federal law requires firearms dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”),⁵⁵ ATF does not have the resources or authority to properly oversee the nearly 134,000 firearms dealers, manufacturers, collectors, and others that it licenses (“FFLs”).⁵⁶

Whereas, ATF faces numerous obstacles that limit its ability to enforce the law; for example, ATF may conduct only one unannounced inspection of each FFL per year, the burden of proof for ATF’s prosecution and revocation of licenses is extremely high, serious violations of firearms law have been classified as misdemeanors rather than felonies, and ATF has historically been grossly understaffed.⁵⁷

Whereas, in 2004, the Office of the Inspector General (“OIG”) found that inspections by ATF are not fully effective for ensuring that FFLs comply with federal firearms laws.⁵⁸

Whereas, a USA Today and Trace investigation in 2021 found that, as a result of

⁵² Centers for Disease Control and Prevention: Web-based Injury Statistics Query and Reporting System (WISQARS), at <https://www.cdc.gov/injury/wisqars/index.html>.

⁵³ Id.

⁵⁴ Id.

⁵⁵ 18 U.S.C. § 922(a)(1)(A).

⁵⁶ U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, Complete Federal Firearms Listings, at https://www.atf.gov/firearms/listing-federal-firearms-licensees/complete?field_ffl_date_value%5Bvalue%5D%5Byear%5D=2021&ffl_date_month%5Bvalue%5D%5Bmonth%5D=5. Total number of Federal Firearms Licensees as of May 10, 2021.

⁵⁷ U.S. Department of Justice Office of the Inspector General Evaluation and Inspections Division, Firearms & Explosives, Inspections of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives, (July 2004), available at <https://oig.justice.gov/reports/ATF/e0405/final.pdf>.

⁵⁸ Id.

inadequate staffing, ATF was able to inspect just 15% of dealers each year between 2010 and 2019, which averages to one visit every seven years.⁵⁹

Whereas, a 2013 report by OIG found that, between 2004 and 2011, FFLs reported 174,679 firearms missing from their inventories and only 62% of FFLs inspected in 2011 were found to be in compliance with federal gun laws.⁶⁰ Despite this high rate of noncompliance, ATF rarely revokes dealers' licenses. During the 2020 fiscal year, ATF only inspected 5,827 licensed dealers, and although more than 2,400 of those dealers were found to have committed violations, only 40 dealers had their licenses revoked.⁶¹

Whereas, ATF has found that FFLs are a major source of trafficked firearms nationwide. In June of 2000, ATF issued a comprehensive report of firearms trafficking in this country. That report analyzed 1,530 trafficking investigations during the period July 1996 through December 1998, involving more than 84,000 diverted firearms.⁶² ATF found that dealers and pawnbrokers were associated with the largest number of trafficked guns – over 40,000 – and concluded that “FFLs’ access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law.”⁶³

Whereas, federal laws are silent regarding many important aspects of the dealer’s business, such as its location (leaving dealers free to operate out of their homes and near schools and other places children frequent) and security requirements during business hours.

Whereas, according to a 1998 ATF random sample of FFLs nationwide, 56% of all dealers operated out of their homes, and a third were located in businesses that are not usually associated with gun sales, such as funeral homes or auto parts stores.⁶⁴ As reported by USA TODAY and The Trace from May 28, 2021, home dealers may comprise around 60% of FFLs.⁶⁵

Findings Regarding Current State and Local Regulation of Firearms Dealers

Whereas, as of May 10, 2021, there were 2,168 individuals federally licensed to sell firearms in Colorado.⁶⁶

⁵⁹ Brian Freskos et al., Off Target, The Trace & USA TODAY (May. 26, 2021), at <https://www.usatoday.com/in-depth/news/investigations/2021/05/26/gun-dealers-let-off-hook-when-atf-inspections-find-violations/7210266002/>.

⁶⁰ Office of the Inspector General, Evaluation and Inspections Division, U.S. Department of Justice, Review of ATF’s Federal Firearms Licensee Inspection Program 1 (Apr. 2013), at <http://www.justice.gov/oig/reports/2013/e1305.pdf>.

⁶¹ Brian Freskos et al., Off Target, The Trace & USA TODAY (May. 26, 2021), at <https://www.usatoday.com/in-depth/news/investigations/2021/05/26/gun-dealers-let-off-hook-when-atf-inspections-find-violations/7210266002/>.

⁶² Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, Following the Gun: Enforcing Federal Laws Against Firearms Traffickers ix (June 2000), available at: <https://www.hsdl.org/?view&did=1622>.

⁶³ Id. at x.

⁶⁴ Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, Commerce in Firearms in the United States 16 (Feb. 2000), available at: http://www.joebrower.com/RKBA/RKBA_FILES/GOV_DOCS/BATF_report_020400.pdf.

⁶⁵ Nick Penzenstadler, ‘Kitchen-Table’ Gun Dealers Rack Up ATF Violations, The Trace & USA TODAY (May. 28, 2021), available at: <https://www.thetrace.org/2021/05/atf-inspections-kitchen-table-home-based-ffl/>.

⁶⁶ U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, Report of Active Firearms Licenses – License Type by State Statistics, at <https://www.atf.gov/firearms/docs/undefined/ffltypebystate05-10-2021pdf/download>.

Whereas, Littleton, Colorado requires gun dealers to obtain a local license, submit to inspections, safely store their inventory when the business is closed, have an operational alarm system, and video record all points of entry and all points where firearms are displayed, stored, or sold.⁶⁷

Whereas, FFLs are required by federal law to comply with all state and local dealer laws as a condition for retaining their federal licenses.⁶⁸

Whereas, the International Association of Chiefs of Police recommends that local governments impose their own licensing requirements on firearms dealers because local requirements can respond to specific community concerns, and local review of licensees provides additional resources to identify and stop corrupt dealers.⁶⁹

Whereas, a 2009 study found that cities in states that comprehensively regulate retail firearms dealers and cities where these businesses undergo regular compliance inspections have significantly lower levels of gun trafficking than other cities.⁷⁰

Whereas, no federal or Colorado law imposes security requirements on firearms dealers during business hours or requires firearms dealers or ammunition sellers to install burglar alarms or surveillance cameras.

Whereas, violence in neighborhoods around schools continues to be a major public health problem among urban students. In one study of Boston neighborhoods, researchers noted that a significantly greater number of shootings were clustered within short distances from schools than would be expected and that 56% of schools in Boston had at least one shooting incident within 400 m, a distance that would take about 5 min to walk if traveling by foot.⁷¹

Whereas, firearms dealers may attract individuals engaged in criminal activity to the communities in which they are located, not only because they are a high-value target for theft, but also because of firearms dealers' willingness to sell to "straw purchasers" who illegally buy for others.⁷²

Whereas, no federal or Colorado law requires firearms dealers to obtain liability insurance, prohibits firearms dealers or ammunition sellers from operating in residential

⁶⁷ Littleton, Colorado City Code, Title 3, Chapter 24 et seq.

⁶⁸ 18 U.S.C. § 923(d)(1)(F).

⁶⁹ International Association of Chiefs of Police (IACP), Taking a Stand: Reducing Gun Violence in Our Communities p. 14 (Sept. 2007), available at: http://www.theiacp.org/Portals/0/pdfs/GVR_A-page-iii_IACP-Taking-A-Stand.pdf.

⁷⁰ Daniel W. Webster et al., Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking, J. Urb. Health (July 2009).

⁷¹ Gia Barboza, "A Secondary Spatial Analysis of Gun Violence Near Boston Schools: a Public Health Approach," Journal of Urban Health 95, no. 3 (2018): 344-360.

⁷² Garen Wintemute, "Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase," Journal of Urban Health 87, no. 5 (2010): 865-878.

neighborhoods or near schools, daycare centers, parks, or other places children frequent, or requires firearms dealers or ammunition sellers to obtain a land use permit.

Whereas, Colorado law requires firearm owners to report the loss or theft of any firearm within 5 days of discovery to law enforcement but explicitly states that the law does not apply to gun dealers.⁷³

Whereas, the Colorado Constitution gives cities and counties the power to pass zoning regulations so long as such regulations do not conflict with issues of significant state interest.⁷⁴

Whereas, in 2021, Colorado passed Senate Bill 256 which expressly authorizes local governments to enact laws regulating the sale of firearms and ammunition. In S.B. 256, the legislature stated that “officials of local governments are uniquely equipped to make determinations as to regulations necessary in their local jurisdictions.”

Findings Regarding Restricting Firearms Dealers in Residential Zones and Sensitive Areas

Whereas, the U.S. Supreme Court has held that localities enacting zoning laws must be given the chance to “experiment with solutions to admittedly serious problems.”⁷⁵ Localities considering an “innovative solution” to reduce crime “may not have data” to directly prove “the efficacy of [their] proposal[s] because the solution would, by definition, not have been implemented previously.”⁷⁶

Whereas, firearms dealers are a high-value target for criminals, and have often been magnets for break-ins, theft, and destruction of property.⁷⁷ According to ATF a total of 4,691 firearms were stolen from gun dealers in 2019.⁷⁸ This number significantly increased in 2020 with 7,180 guns stolen from FFLs nationwide.⁷⁹

Whereas, an ATF report revealed that the number of firearms stolen from Colorado

⁷³ C.R.S § 18-12-113.

⁷⁴ See, U.S. West Communications, Inc. v. City of Longmont, 948 P.2d 509, 515 (Colo. 1997), citing City and County of Denver v. State, 788 P.2d 764 (Colo. 1990).

⁷⁵ Renton v. Playtime Theatres, 475 U.S. 41, 52 (1986) (quoting Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976) (plurality opinion)).

⁷⁶ City of L.A. v. Alameda Books, 535 U.S. 425, 439-40 (2002) (plurality opinion).

⁷⁷ According to the Special Agent in Charge of ATF’s Sacramento office, “When people break into homes or businesses, guns are often the target. ... [O]f the commodities that we find that people that are involved in criminal activity are looking for, guns are very high on the list.” Lynn Walsh, Dave Manoucheri and Mari Payton, Stolen Guns Fuel Underground Market For Criminals in California, NBC7 San Diego, Aug. 9, 2016, <http://www.nbcsandiego.com/investigations/Stolen-Guns-Fuel-Underground-Market-For-Criminals-in-California-389352802.html>.

⁷⁸ U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco and Firearms, Federal Firearms Licensee Burglary and Robbery Statistics - Calendar Year 2015 – 2019 (Jan. 2020), available at: <https://www.atf.gov/infographics/federal-firearms-licensee-burglary-and-robbery-statistics-calendar-year-2015-2019>.

⁷⁹ U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, Federal Firearms Licensee (FFL) Theft/Loss Report (Jan. 4, 2021) at <https://www.atf.gov/firearms/docs/undefined/federalfirearmslicenseeffltheftlossreportjan2020-dec2020508pdf/download>.

dealers in 2019 was 157.⁸⁰ In 2020, this number increased by 18%, with 186 firearms stolen from Colorado dealers.⁸¹

Whereas, an in-depth 18-month investigation by the Tampa Bay Times that was completed in November 2017 found that “[w]eak security practices at many gun stores have made commercial burglaries an increasingly significant source of weapons for criminals in Florida and beyond.” The investigation found that thefts from gun dealers “are fueling a black market of firearms for people who can’t get them legally. They can resurface in violent crimes or end up in the hands of convicted felons.”⁸²

Whereas, in 2020 and 2021, there were numerous reports of robberies or attempted robberies of firearms dealers in Colorado. A sampling of incidents includes:

- 21 firearms stolen from Eagles Nest Armory in Arvada. April 28, 2020.⁸³
- 50 firearms stolen from Triple J Armory in Littleton. This was the third time the gun dealership had been robbed since opening in 2018. June 30, 2020.⁸⁴
- A rifle and ammunition were stolen at Alpine Firearms in Woodland Park. August 17, 2020.⁸⁵

Whereas, even one stolen gun can destroy many lives - one gun stolen from an FFL in Chicago was used to shoot 24 individuals - two fatally - in 27 separate shootings over the course of less than two years.⁸⁶

Whereas, a 2009 study found that gun homicide rates in major cities were higher in areas where firearm dealers were more prevalent.⁸⁷ The authors concluded that “it is possible that regulating the locations and activities of stores where firearms are sold is a way to curb homicide.”⁸⁸

⁸⁰ U.S. Dep’t of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, Federal Firearms Licensee (FFL) Theft/Loss Report (Jan. 2, 2020) at <https://www.atf.gov/file/142186/download>.

⁸¹ Id.

⁸² Laura C. Morel, “Prime Targets: Weak Security Makes Gun Stores a ‘Rich Environment’ for Thieves,” Tampa Bay Times, Nov. 1, 2017, <http://project.tampabay.com/2017/special-report/unlocked-loaded/gun-dealers/>.

⁸³ Kevin Vaughn, “Affidavit: Man showed undercover agent footage of gun store burglary, bragged ‘this is me and my crew’” 9 News, May, 22 2020, <https://www.9news.com/article/news/investigations/gun-store-robbery-suspect-shows-undercover-agent-surveillance-video/73-d0f6db44-cdb1-4aa8-8ba4-3c608e191216>.

⁸⁴ David Gilbert, “Littleton enacts state’s first ‘safe storage’ law for gun dealers” The Littleton Independent, Feb.8, 2021, <https://littletonindependent.net/stories/littleton-enacts-states-first-safe-storage-law-for-gun-dealers,372453>

⁸⁵ “Reward offered for information about burglary at Woodland Park Gun Store” Fox 21 News, August 17, 2020,

<https://www.fox21news.com/top-stories/reward-offered-for-information-about-burglary-at-woodland-park-gun-store/>

⁸⁶ Jeremy Gerner, et al., “A gun was stolen from a small shop in Wisconsin. Officials have linked it to 27 shootings in Chicago,” Chicago Tribune, Sept. 21, 2021, <https://www.chicagotribune.com/news/criminal-justice/ct-stolen-gun-multiple-crimes-chicago-20210921-aiqhedigtgnhrbnkogk26vgdgu-story.html>

⁸⁷ Douglas J. Wiebe et al., Homicide and Geographic Access to Gun Dealers in the United States, BMC Public Health 2009, 9:199, at 2, 6, available at <http://www.biomedcentral.com/1471-2458/9/199>.

⁸⁸ Id. at 2 (observing that it is “helpful to adopt an urban planning perspective when considering the possibility that [federally-licensed firearms dealers] could be impacting local homicide rates”).

Whereas, the same study analyzed ATF data showing that guns “are often found to have been used for criminal purposes not far from the gun dealer where they were first obtained,” and “almost one-third (32.2%) of traced crime guns are recovered by police within 10 miles of the [firearms dealer] where they were first purchased.”⁸⁹ Firearms dealers’ impact on the homicide rate thus “appears most likely to have an effect in the home or surrounding counties.”⁹⁰

Whereas, firearms dealers may attract individuals engaged in criminal activity to the communities in which they are located, not only because they are a high-value target for theft, but also because of firearms dealers’ willingness to sell to “straw purchasers” who illegally buy for others who are unauthorized to possess a gun.⁹¹

Whereas, based on the above evidence, the presence of firearms dealers in residential neighborhoods and sensitive areas may endanger the public (and decrease the public’s sense of safety⁹²) by increasing the risk of criminal activity, such as gun thefts, “smash-and-grab” robberies, trafficking, and straw buying, as well as violent crime, including gun homicide.

Findings Regarding Restricting Firearms Dealers in School Zones

Whereas, under the federal Gun-Free School Zones Act, the possession of firearms is generally prohibited in K-12 schools (including public, private, and parochial schools), and on public property located within school zones, defined to mean within 1,000 feet from the grounds of a school.⁹³

Whereas, federal law does not prohibit firearms dealers from operating on private property within 1,000 feet of the grounds of a school.⁹⁴ However, such a business location would mean that any customer who purchases a firearm from that business would likely (unless they fall within a statutory exception⁹⁵) be in violation of federal law immediately upon exiting the dealer’s property, because they would be entering a public sidewalk in a school zone with a firearm.⁹⁶

⁸⁹ Id. at 7.

⁹⁰ Id.

⁹¹ Garen Wintemute, *Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase*, 87 J. Urb. Health 865, 867, 872 (2010) (In a survey of California handgun dealers, 20.1% agreed to assist a potential buyer with a transaction that had many attributes of a straw purchase); see also supra n. 16 (ATF data shows that licensed dealers are associated with the largest number of trafficked guns diverted from lawful commerce into the illegal market).

⁹² See *Friedman v. City of Highland Park*, 784 F.3d 406, 412 (7th Cir. 2015) (law that reduces the “perceived risk from a mass shooting, and mak[es] the public feel safer as a result” provides “a substantial benefit”).

⁹³ 18 U.S.C. § 922(q)(2); see also id. § 921(a)(25) (defining “school zone”).

⁹⁴ See 18 U.S.C. § 922(q)(2)(B) (firearm prohibition “does not apply to the possession of a firearm ... on private property not part of school grounds”).

⁹⁵ See 18 U.S.C. § 922(q)(2)(B)(ii) (exempts carriers who have a concealed carry weapons (CCW) license); Id. § 922(q)(2)(B)(iii) (exempts firearms that are unloaded and in a locked container or locked firearms rack).

⁹⁶ Courts have recognized that sidewalks in front of private property are public spaces for purposes of the Gun Free School Zones Act. E.g., *United States v. Redwood*, 2016 U.S. Dist. LEXIS 109735, *6 (N.D. Ill. Aug. 18, 2016).

Whereas, the federal and state laws deeming K-12 schools and surrounding areas to be gun-free zones have successfully reduced gun violence in schools. School-associated student homicide rates decreased significantly after the federal laws restricting guns in schools were adopted in the early 1990s,⁹⁷ and fewer students are carrying guns.⁹⁸

Whereas, zoning regulations that prohibit firearms dealers within 1,000 feet of a school help ensure that the Gun-Free School Zones Act is appropriately enforced, and that dealers are not permitted to operate in a location where their customers would be violating federal law upon exiting the store. Such zoning regulations also protect the significant reductions in gun violence that the Gun-Free School Zones Act, and similar state laws, have achieved in America's schools.

Findings Regarding Liability Insurance

Whereas, under existing law, firearms dealers are subject to potential liability if they negligently supply a firearm to a person who is likely to and does use the firearm in a manner involving unreasonable risk of physical injury – such as a sale to an intoxicated person or a minor.⁹⁹ Firearms dealers may also be subject to potential liability for conduct that causes harm if the conduct violates an applicable state or federal law.¹⁰⁰ Further, firearms dealers may be subject to potential liability if patrons are injured on their premises, or for other conduct creating premises liability or property owner liability.

Whereas, injuries and deaths from firearms, as well as other from other accidents that may occur on a business' property, can devastate individuals and burden social safety nets. Liability insurance reduces these harms by providing necessary compensation to individuals who may be injured by the actions of a gun dealer.

Whereas, in order to ensure that any victims who are injured by a firearms dealer's negligence or other conduct receive the compensation to which they are legally entitled, firearms dealers should obtain adequate insurance policies.

Findings Regarding Public Support for the Regulation of Firearms Dealers

Whereas, a national poll conducted in March and April 2008 found that:

⁹⁷ Centers for Disease Control & Prevention, Morbidity & Mortality Weekly Report, School-Associated Student Homicides – United States, 1992-2006 (Jan. 18, 2008), at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5702a1.htm>. The rates decreased from from 0.07 per 100,000 students to 0.03 per 100,000 students. Id.

⁹⁸ Between 1993 and 1999, the percentage of students who carried a gun, regardless of location, decreased from 7.9% to 4.9%. This lower percentage did not change significantly over the years 1999–2007. Danice K. Eaton et al., Centers for Disease Control & Prevention, Youth Risk Behavior Surveillance – United States, 2007, Morbidity & Mortality Weekly Report, (June 6, 2008), at <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5704a1.htm> (surveying students in grades 9 – 12 about their behaviors throughout 2007).

⁹⁹ See 15 U.S.C. § 7903(5)(A)(ii).

¹⁰⁰ See 15 U.S.C. § 7903(5)(A)(iii).

- 86% of Americans and 83% of gun owners favor requiring gun retailers to inspect their inventories every year to report stolen or missing guns;
- 88% of Americans favor requiring gun stores to keep all guns locked securely to prevent theft; and
- 74% of Americans favor requiring gun retailers to videotape all gun sales.¹⁰¹

Whereas, in a nationwide poll conducted in January of 2007, 86% of gun owners reported that a gun store’s decision to videotape all gun sales would not impact their decision to buy a gun at that store.¹⁰²

Therefore, the jurisdiction/governing body hereby adopts the following:

ARTICLE 1 SALE OF FIREARMS AND AMMUNITION

Sec. 1 Definitions

“Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, and any component thereof, but shall not include blank cartridges or ammunition that can be used solely in an “antique firearm” as that term is defined in section 921(a)(16) of Title 18 of the United States Code.

“Applicant” means any person who applies for a law enforcement permit, or the renewal of such a permit, to sell, lease or transfer firearms or ammunition.

“Chief of Police/Sheriff” means the Chief of Police/Sheriff or the Chief’s/Sheriff’s designated representative.

To “engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition” means to conduct a business by the selling, leasing or transferring of any firearm or ammunition, or to hold one’s self out as engaged in the business of selling, leasing or otherwise transferring any firearm or ammunition, or to sell, lease or transfer firearms or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

“Firearm” has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.

“Permittee” means any person, corporation, partnership or other entity engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition, which person or entity has obtained a law enforcement permit to sell, lease or transfer firearms or ammunition.

¹⁰¹ Greenberg Quinlan Rosner Research and the Tarrance Group, Americans Support Common Sense Measures to Cut Down on Illegal Guns 3, April 10, 2008.

¹⁰² Greenberg Quinlan Rosner Research & The Tarrance Group for the Mayors Against Illegal Guns, Strong Public Support for Tough Enforcement of Common Sense Gun Laws (Graphs), January 23, 2007.

Sec. 2 Law enforcement permit

[This model requires both firearms dealers and ammunition sellers to obtain a land use permit as well as a law enforcement permit. Alternatively, jurisdictions may choose to make the land use permit requirement in Article 2 of this model applicable only to firearms dealers, and not to persons and entities that sell only ammunition.]

It is unlawful for any person, corporation, partnership or other entity to engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition within City/County without a law enforcement permit, as required by this Article, and a land use permit, as required by Article 2.

Sec. 3 Application for permit

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

- (1) The applicant's name, including any aliases or prior names, age and address;
- (2) The applicant's federal firearms license;
- (3) The address of the proposed location for which the permit is sought, together with the business name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the business;
- (4) The names, ages and addresses of all persons who will have access to or control of workplace firearms or ammunition, including but not limited to, the applicant's employees, agents and/or supervisors, if any;
- (5) Proof of a possessory interest in the property at which the proposed business will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which, the applicant's business is to be located and conducted, the written consent of the owner of record of such real property to the applicant's proposed business;
- (6) A floor plan of the proposed business which illustrates the applicant's compliance with security provisions, as outlined in Sec. 6 of this Article;
- (7) [Proof of the issuance of a land use permit at the proposed location] or [Proof that

the proposed location complies with all applicable zoning laws¹⁰³];

- (8) Proof of compliance with all applicable federal, state and local licensing and other business laws;
 - (9) Information relating to every license or permit to sell, lease, transfer, purchase, or possess firearms or ammunition which was sought by the applicant from any jurisdiction in the United States, including, but not limited to, the date of each application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;
 - (10) The applicant's agreement to indemnify, defend and hold harmless the City/County, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the operation of the business, including attorney's fees, arising in any manner out of the negligence or intentional or willful misconduct of:
 - (A) The applicant;
 - (B) The applicant's officers, employees, agents and/or supervisors; or
 - (C) If the business is a corporation, partnership or other entity, the officers, directors or partners.
 - (11) Certification of satisfaction of insurance requirements, for applicants applying for a permit to sell firearms;
 - (12) The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States.
- (b) The application shall be accompanied by a nonrefundable fee for administering this Article as established by City Council/County Board of Supervisors resolution.

Sec. 4 Investigation by Chief of Police/Sheriff

- (a) The Chief of Police/Sheriff shall conduct an investigation of the applicant to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed.
- (b) Prior to engaging in in the business of selling, leasing, or otherwise transferring any firearm or ammunition, the applicant and any employees with access to or control over

¹⁰³ The second alternative language should be used if a jurisdiction choose not to require proposed businesses to obtain a land use permit.

firearms or ammunition must first submit directly to the Chief of Police/Sheriff a complete set of fingerprints and a signed authorization for release of records pertinent to the investigation. Employees, agents or supervisors of the applicant or permittee may not have access to or control over workplace firearms or ammunition until the Chief of Police/Sheriff has conducted an investigation pursuant to this section and verified that none of the conditions listed in Sec. 5 exist, as applied to those employees, agents or supervisors. A new law enforcement investigation and background verification of such persons must be conducted each time the permittee renews his or her permit, or applies for a new permit. Except as provided in subsection (c), the Department shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the applicant or permittee allows any employee, agent or supervisor to have access to or control over workplace firearms or ammunition prior to the completion of the law enforcement investigation and background verification of those persons, or if those persons have not undergone the law enforcement investigation and background verification process within the last 365 days.

(c) Where an applicant is applying for a law enforcement permit to sell, lease or transfer firearms or ammunition within the first [90] days of the effective date of this Article, and where the applicant has an existing firearms dealer business which complies with all applicable federal, state and local laws, or is not a seller of firearms but is already engaged in the sale of ammunition:

(1) The applicant's current employees, agents, or supervisors may continue to have access to or control over workplace firearms and ammunition pending the completion of the Chief of Police/Sheriff's investigation and background verification; and

(2) Where one or more of the applicant's employees, agents, or supervisors are found to be in violation of the conditions listed in Sec. 5, the applicant shall have [21] days from the mailing of written notification from the Chief of Police/Sheriff to verify that such persons have been removed or reassigned so that they no longer have access to or control of workplace firearms or ammunition. Failure of the applicant to comply with this subsection shall cause the Chief of Police/Sheriff to deny the application for a law enforcement permit.

(d) Prior to issuance or renewal of the permit, the Chief of Police/Sheriff shall inspect the premises to ensure compliance with this Article.

(e) The Chief of Police/Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this Article and all other applicable federal, state and local laws.

Sec. 5 Grounds for permit denial or revocation

(a) The Chief of Police/Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the business would not or does

not comply with federal, state or local law, or if the applicant, permittee, or any employee with access to or control over firearms or ammunition:

- (1) Is under 21 years of age;
 - (2) Is not licensed as required by all applicable federal, state and local laws; [A jurisdiction may choose to replace this language with: “(2) Is not licensed as a dealer in firearms under all applicable federal, state and local laws.” This option would prohibit the sale of ammunition by persons not engaged in the business of selling firearms, such as hardware and convenience stores.]
 - (3) [Does not have an approved land use permit for the proposed location] or [The proposed location violates applicable zoning laws¹⁰⁴];
 - (4) Has made a false or misleading statement of a material fact or omission of a material fact in the application for a law enforcement permit, or in any other documents submitted to the Chief of Police/Sheriff pursuant to this Article. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;
 - (5) Has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;
 - (6) Is a person prohibited from purchasing or possessing firearms or ammunition under federal, Colorado, or local law, or has been convicted of;
 - (A) An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;
 - (B) An offense involving the use of force or violence upon the person of another;
 - (C) An offense involving theft, fraud, dishonesty or deceit;
 - (D) Within the preceding [five] years, an offense involving the manufacture, sale, possession, or use of a controlled substance; or
- (b) The law enforcement permit of any person or entity found to be in violation of any of the provisions of this Article may be revoked.

Sec. 6 Hearing for permit denial or revocation

¹⁰⁴ The second alternative language should be used if a jurisdiction chooses not to require proposed businesses to obtain a land use permit.

(a) Within ten days of the Chief of Police/Sheriff mailing a written denial of the application or revocation of the permit, the applicant may appeal by requesting a hearing before the Chief of Police/Sheriff. 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/Sheriff shall set a time and place for the hearing within 30 days.

(b) The Chief of Police/Sheriff shall provide a written decision regarding the appeal within 14 calendar days of the hearing. An applicant may appeal the decision of the Chief of Police/Sheriff to the [appropriate government body. The appeal process should also be detailed or referenced here].

Sec. 7 Report of permit revocation to federal and state authorities

In addition to any other penalty or remedy, the City Attorney/County Counsel shall report any person or entity whose law enforcement permit is revoked pursuant to this Article to the Colorado Bureau of Investigation and the Bureau of Alcohol, Tobacco, Firearms & Explosives within the U.S. Department of Justice.

Sec. 8 Issuance of law enforcement permit – Duration

(a) A law enforcement permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by City Council/County Board of Supervisors resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this Article. Police/Sheriff's department personnel shall inspect the permitted business premises for compliance with this Article prior to renewal of the permit. The renewal application and the renewal fee must be received by the Police/Sheriff's department no later than 45 days before the expiration of the current permit.

(b) A decision regarding issuance, renewal, or revocation of the law enforcement permit may be appealed in the manner provided in Sec. 6 of this Article.

Sec. 9 Nonassignability

A law enforcement permit issued under this Article is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit.

Sec. 10 Display of law enforcement permit

The law enforcement permit, or a certified copy of it, shall be displayed in a prominent place on the business premises where it can be easily seen by those entering the premises.

Sec. 11 On-site security

(a) If the proposed or current business location is to be used at least in part for the sale of firearms, the permitted place of business shall meet all of the following specifications.

- (1) All perimeter doorways shall meet one of the following:
 - (A) A windowless steel security door equipped with both a dead bolt and a doorknob lock.
 - (B) 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.
 - (C) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.
- (2) All windows are covered with steel bars.
- (3) Heating, ventilating, air-conditioning, and service openings are secured with steel bars or metal grating.
- (4) Any metal grates have spaces no larger than six inches wide measured in any direction.
- (5) Any metal screens have spaces no larger than three inches wide measured in any direction.
- (6) All steel bars shall be no further than six inches apart.

(b) Any time a permittee is not open for business, every firearm shall be stored in one of the following ways:

- (1) In a locked fireproof safe or vault in the licensee's business premises that meets Underwriters Laboratories Residential Security Container rating standards by a Nationally Recognized Testing Laboratory (NRTL).
- (2) Secured with a hardened steel rod or cable of at least one-fourth 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 boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No

more than five firearms may be affixed to any one rod or cable at any time.

(c) Any time a permittee is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the permittee:

(1) Secured within a locked case so that a customer seeking access to the firearm must ask an employee of the permittee for assistance;

(2) Secured behind a counter where only the permittee and the permittee's employees are allowed. During the absence of the permittee or a permittee's employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or

(3) Secured with a hardened steel rod or cable of at least one-fourth 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 boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(d) Any time a permittee is open for business, all ammunition shall be stored so that it is inaccessible to the public and secured using one of the methods mentioned in subsection (c)(1) or (2), except in the immediate presence of and under the direct supervision of an employee of the permittee.

(f) The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator properly licensed pursuant to state law. The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a #3 extent of protection.¹⁰⁵

(g) The permitted business location shall be monitored by a video surveillance system that meets the following requirements:

(1) The system shall include cameras, monitors, digital video recorders, and cabling, if necessary.

(2) The number and location of the cameras are subject to the approval of the Chief

¹⁰⁵ Underwriters Laboratories, Inc. uses the term "extent of protection" to refer to the amount of alarm protection installed to protect a particular area, room or container. Systems with a #3 extent of protection include complete protection for all accessible openings, and partial motion and sound detection at certain other areas of the premises. For more information, see Central Station Alarm Association, A Practical Guide to Central Station Burglar Alarm Systems, <https://tma.us/a-practical-guide-to-central-station-burglar-alarm-systems-updated-for-2018/>.

of Police/Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults, cabinets, cases, entryways, and parking lots. The video surveillance system shall operate continuously, without interruption, whenever the permittee is open for business. Whenever the permittee is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area.

(3) In addition, the sale or transfer of a firearm or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible.

(4) When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than 15 frames per second.¹⁰⁶ The system must produce retrievable and identifiable images and video recordings on media approved by the Chief of Police/Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises.

(5) The stored images shall be maintained on the business premises of the permittee for a period not less than five years from the date of recordation and shall be made available for inspection by federal, state or local law enforcement upon request.

(6) The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within 14 calendar days. The permittee must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required.

(i) [Optional] The Chief of Police/Sheriff may exempt a permittee from the requirements of subsections (a) through (f) on an individual basis if:

(1) The Chief of Police/Sheriff determines that the permittee has or will secure its premises adequately to prevent burglary of the premises and thefts of the permittee's inventory when the business is both open and closed.

(2) The Chief of Police/Sheriff documents in writing the security plan described in subsection (i)(1) and certifies that it meets the objectives of sections (a) through (f) of this section.

¹⁰⁶ Television in the U.S. has 30 frames per second. However, 15 frames per second is generally described as viewable, and is used in similar regulations. See, e.g., 02-392-013 Me. Code R. 6(6).

(j) No firearm, imitation firearm, ammunition, or placard advertising the sale or other transfer of a firearm, imitation firearm, or ammunition shall be placed in a window or any place else where it can be readily seen from the outside.

Sec. 12 Liability insurance

(a) If the proposed or current business location is to be used for the sale of firearms, no law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City/County and executed by an insurance company approved by the City/County, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a firearm or ammunition, or any other operations of the business. The policy shall also name the City/County and its officers, employees and agents as additional insureds. The limits of liability shall not be less than \$1,000,000 for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the City Attorney/County Counsel if deemed necessary.

(b) The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the City Manager/County Administrator at least 30 days prior to the time the cancellation becomes effective.

(c) Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice.

Sec. 13 Duties upon sale, lease, or transfer

No permittee or agent, employee, or other person acting under the permittee's authority shall sell or otherwise transfer ownership of, or lease or loan any firearm or ammunition to any person the permittee or agent, employee, or other person acting under the permittee's authority knows or has reasonable cause to believe is prohibited by federal, state, or local law from purchasing or possessing the firearm or ammunition.

Sec. 14 Sales Records and Reports

(a) No permittee or any agents, employees, or other persons acting under the permittee's authority shall sell or otherwise transfer ownership of any firearm or ammunition without verifying the identity and age of the transferee and recording the following information on a form to be provided by the Chief of Police/Sheriff:

- (1) The date of the transaction;
- (2) The name, address and date of birth of the transferee;
- (3) The number of the transferee's current driver's license or other government-

issued identification card containing a photograph of the transferee, and the name of the governmental authority that issued it;

- (4) The make, model, caliber or gauge, and serial number of any firearm transferred, and the brand, type, caliber or gauge, and amount of any ammunition transferred;
- (5) The transferee's signature; and
- (6) The name of the permittee's agent or employee who processed the transaction.

(b) The permittee and any agents, employees, or other persons acting under the permittee's authority shall also, at the time of purchase or transfer, obtain the right thumbprint of the transferee on the above form.

(c) The records created in accordance with this section must be maintained on the business premises of the permittee for a period not less than five years from the date of the recorded transfer and shall be made available for inspection by federal, state or local law enforcement upon request.

(d) Within one year of the effective date of this section, the Chief of Police/Sheriff shall submit a report to the City Council/County Board of Supervisors regarding the ammunition sales records maintained since the effective date of this section. The report shall state information including, but not limited to: the number of prohibited persons who had purchased ammunition and who were identified through use of these records, as well as the number of searches, arrests, and investigations performed, charges filed, convictions obtained and firearms and ammunition seized, as a result of these records.

(e) This section shall not apply if the transferee is:

- (1) A "peace officer" as that term is defined in C.R.S. 16-2.5-101 and C.R.S. 16-2.5-102 or a federal law enforcement officer; or
- (2) A person licensed as a dealer or collector in firearms pursuant to Chapter 44 (commencing with Sec. 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Sec. 15 Inventory reports

Within the first five business days of April and October of each year, the permittee shall cause a physical inventory to be taken that includes a listing of each firearm held by the permittee by make, model, and serial number, together with a listing of each firearm the permittee has sold since the last inventory period.

In addition, the inventory shall include a listing of each firearm lost or stolen that is

required to be reported pursuant to Section 17 of this ordinance. Immediately upon completion of the inventory, the permittee shall forward a copy of the inventory to the address specified by the Chief of Police/Sheriff, by such means as specified by the Chief of Police/Sheriff, however, firearms held for repair, sale, or consignment on behalf of a third party shall not be included in the forwarded inventory.

With each copy of the inventory, the permittee shall include an affidavit signed by an authorized agent or employee on behalf of the permittee under penalty of perjury stating that within the first five business days of that April or October, as the case may be, the signer personally confirmed the presence of the firearms reported on the inventory. The permittee shall maintain a copy of the inventory on the premises for which the law enforcement permit was issued for a period of not less than five years from the date of the inventory and shall make the copy available for inspection by federal, state or local law enforcement upon request.

Sec. 16 Law enforcement inspections¹⁰⁷

Permittees shall have their places of business open for inspection by federal, state and local law enforcement during all hours of operation. The Police/Sheriff's department shall conduct periodic inspections of the permittee's place of business without notice to assess the permittee's compliance with this Article. The inspections shall be of the parts of the permittee's place of business that are used to store or sell firearms, ammunition, records, and/or documents. The Police/Sheriff's department shall conduct no more than two inspections of a single place of business during any six-month period, except that the Police/Sheriff's department may conduct follow-up inspections that exceed two in a six-month period if they have good cause to believe that a permittee is violating this Article. Permittees shall maintain all records, documents, firearms and ammunition in a manner and place accessible for inspection by federal, state and local law enforcement.

Sec. 17 Reporting of Lost or Stolen Firearms and Ammunition

(a) Within 48 hours of when a permittee knew or should have known that any of the following items have been lost or stolen, a permittee shall report the loss or theft to the appropriate law enforcement agency in the city, county, or city and county where the permittee's business premises are located:

- (1) Any firearm or ammunition that is merchandise of the permittee.
- (2) Any firearm or ammunition that the permittee takes possession of pursuant to C.R.S. 18-12-112.
- (3) Any firearm or ammunition kept at the permittee's place of business.

Sec. 18 Restricted admittance of minors and other prohibited purchasers

¹⁰⁷ See Part II.D for a discussion of the law enforcement inspection provision.

(a) Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow the following persons to enter into or remain on the premises unless accompanied by his or her parent or legal guardian:

(1) Any person under 21 years of age, if the permittee sells, keeps or displays only firearms capable of being concealed on the person, provided that this provision shall not prevent a supervisory agent or employee who has the authority to control activities on the business premises from keeping a single firearm capable of being concealed on the person on the business premises for purposes of lawful self-defense; or

(2) Any person under 18 years of age, if the permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person.

(b) Where firearm sales activity is the primary business performed at the business premises, the permittee and any of his or her agents, employees, or other persons acting under the permittee's authority shall be responsible for requiring clear evidence of age and identity of persons to prevent the entry of persons not permitted to enter the premises pursuant to subsection (a) by reason of age. Clear evidence of age and identity includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, or an employment identification card which contains the bearer's signature, photograph and age, or any similar documentation which provides reasonable assurance of the identity and age of the individual.

(c) Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow any person to enter into or remain on the premises who the permittee or any of his or her agents, employees, or other persons acting under the permittee's authority knows or has reason to know is prohibited from possessing or purchasing firearms pursuant to federal, state, or local law.

Sec. 19 Posted warnings

(a) A permittee shall comply with C.R.S. 18-12-111 and post signs required by that section. A permittee shall also post conspicuously the following warnings in block letters not less than one inch in height:

(1) Within the licensed premises: "WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A BACKGROUND CHECK AT A LICENSED FIREARMS DEALERSHIP."

(2) Within the licensed premises: "SAFE STORAGE IS THE LAW IN COLORADO. FAILURE TO RESPONSIBLY AND SECURELY STORE A FIREARM ACCORDING TO THE REQUIREMENTS

OF C.R.S. 18-12-114 IS A CLASS 2 MISDEMEANOR.”

(3) Within the licensed premises: “IF YOU ARE STRUGGLING EMOTIONALLY OR THINKING OF SUICIDE, CALL 1-800-273-TALK (1-800-273-8255). FREE AND CONFIDENTIAL.”

(4) At each entrance to the licensed premises: “THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.”

(b) If a permittee sells, keeps or displays only firearms capable of being concealed on the person, the permittee shall post a sign stating: “FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 21 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN.”

(c) If a permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person, the permittee shall post a sign stating: “FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 18 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN.”

Sec. 20 Violations

(a) The Police/Sheriff’s department may revoke the permit of any permittee found to be in violation of any of the provisions of this Article.

(b) In addition to any other penalty or remedy, the City Attorney/County Counsel may commence a civil action to seek enforcement of these provisions. The prevailing plaintiff in a suit to enforce these provisions is entitled to reasonable costs and attorney’s fees.

Sec. 21 Compliance by existing businesses

A person engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition on the effective date of this Article shall, within 90 days of the effective date, comply with this Article. However, any person whose existing business is located in any location that makes them ineligible to obtain a land use permit may continue to sell, lease, or transfer firearms and ammunition, provided that they comply with all other provisions of this Article.¹⁰⁸ [Jurisdictions that choose not to require businesses to obtain a land use permit should delete the previous sentence.]

Sec. 22 Civil liability

¹⁰⁸ The model recommends including this sentence as a legacy clause that allows existing businesses to continue to operate in a location for which they cannot obtain a land use permit, as long as they comply with all other provisions of the Article.

(a) As provided in 15 U.S.C. § 7903(5)(A)(iii), any person or other entity with a permit under this Chapter who has knowingly violated any provision of a federal or state statute applicable to the sale or marketing of a firearm shall be liable in a civil action to any person injured by such violation.

(b) As provided in 15 U.S.C. § 7903(5)(A)(ii), any person or other entity with a permit under this Chapter who has violated any federal, state or local law shall be liable in a civil action to any person injured by such violation under the doctrine of negligence per se.

(c) As provided in 15 U.S.C. § 7903(5)(A)(ii), any person or other entity who negligently entrusts a firearm or ammunition to another person shall be liable in a civil action to any person injured and for any and all damages resulting from the negligent entrustment. For purposes of this provision, the term “negligent entrustment” shall have the meaning given in 15 U.S.C. § 7903(5)(B).

(d) The remedies set forth in this section are in addition to any other remedies provided for by law.

Sec. 23 Severability clause

If any section, subsection, sentence or clause of this Article is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Article or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this Article notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

ARTICLE 2 LAND USE PERMITS

[This model requires both firearms dealers and ammunition sellers to obtain a land use permit as well as a law enforcement permit. Alternatively, jurisdictions may choose to make the land use permit requirement in Article 2 of this model applicable only to firearms dealers, and not to persons and entities that sell only ammunition.]

Jurisdictions may also choose to amend only their zoning codes, and not to require any firearms dealers or ammunition sellers to obtain a land use permit. A jurisdiction that chooses this option does not need to enact Article 2 of this model, but can use Sec. 1(d) below as a guide when enacting zoning regulations for firearm dealers and ammunition sellers.

Important Note: This Article was initially drafted to be consistent with California law. Local jurisdictions in Colorado must follow local and Colorado law when structuring and issuing a land use permit that includes location restrictions. The following should be taken as an informational guide only.]

Sec. 1 Firearm and ammunition sales

(a) Purpose. The purpose of this section is to provide for the appropriate location of any person, corporation, partnership or other entity engaging in the business of selling, leasing, or otherwise transferring any firearm or ammunition (hereinafter “firearms dealer or ammunition seller”) through the permitting process.

(b) Procedure. An applicant for a land use permit shall apply to the [appropriate city or county governmental body] by application prescribed by the City/County in the manner provided.

(c) Permit Requirement. It is unlawful for any firearms dealer or ammunition seller to sell, lease or transfer firearms or ammunition unless the dealer or seller has obtained a land use permit pursuant to this Chapter and a law enforcement permit as provided under Article 1 of this Chapter. Subject to the restrictions listed below, firearms dealers and ammunition sellers are permitted in [enumerate permitted districts, e.g., commercial, industrial, etc.]. Firearms dealers and ammunition sellers are prohibited in all other land use districts.

(d) Location. A land use permit for the sale of firearms or ammunition will not be issued if the proposed business premises are located in a residence, or within [250 – 1,000] feet¹⁰⁹ of any school, pre-school, day-care facility, park, community center, place of worship, youth center, or residentially zoned district or area.¹¹⁰ In appropriate circumstances, the City/County

¹⁰⁹ We recommend that jurisdictions decide on an appropriate location restriction between 250 and 1,000 feet by assessing the size and specific needs of their community, the availability of suitable land parcels compliant with the location restriction, and other relevant factors.

¹¹⁰ Jurisdictions may choose to modify these location restrictions based on business or other needs of their community, including by allowing existing firearms dealers, expressly allowing permittees to sell their business to a new owner, or allowing

may grant a variance and issue a land use permit even if the location of the proposed business premises does not comply with this paragraph.

(e) Other Criteria. The [appropriate governmental body] shall approve or conditionally approve a land use permit application only if, on the basis of the application, plans, materials, testimony, and other facts submitted at the hearing, the planning commission finds:

(1) The location of the proposed land use is in accordance with the general plan of City/County; and

(2) The location, size, design, and operating characteristics of the proposed use will be compatible with and will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the proposed land use and the surrounding neighborhood.

(f) Public Hearing and Notice Required. A public hearing shall be held with reference to an application for a land use permit. Notice for the public hearing shall be set forth as follows:

(1) The contents of a public notice must include the following:

(A) Date, time, and place of the public hearing;

(B) Identity of the hearing body or hearing officer;

(C) General explanation of the matter to be considered and where more specific information may be obtained;

(D) General description in text or by diagram of the location of the real property/parcel or building which is the subject of the hearing; and

(E) A statement that any interested party or agent may appear and be heard.

(2) [Insert any additional desired notice provisions.]

(g) Conditions. An approved land use permit is not effective until the applicant satisfies the following terms and conditions:

(1) Possession of a valid law enforcement permit as required under Article 1;

(2) Possession of all licenses and permits required by federal, state and local law;
and

permittees to expand or relocate a business within the same shopping center or site. Jurisdictions may also choose to clarify how land parcels that are partly within and partly outside the location restrictions will be treated, and/or to specify what will happen if a school, pre-school, day-care facility, etc. locates within the distance limitations of a dealer already in operation.

(3) Compliance with the requirements of the City's/County's building code, fire code and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use permit shall require that the applicant obtain a final inspection from the City/County building official demonstrating code compliance before the applicant may begin business at the premises at issue.

Sec. 2 Nonconforming uses

A firearms dealer or ammunition seller located in any location described in Sec. 1(d) at the effective date of this ordinance may continue to sell, lease or transfer firearms and ammunition, provided that they comply with all other provisions of this Article.

[Optional replacement text: A firearms dealer or ammunition seller located in any location described in Sec. 1(d) may continue to sell, lease or transfer firearms and ammunition for up to one year after the effective date of this Article, provided the dealer or seller complies with all other requirements of Article 1 pertaining to eligibility for a law enforcement permit, within 90 days of the effective date of Article 1. After the one-year period has expired, all firearms dealers and ammunition sellers are prohibited from selling, leasing or transferring firearms and ammunition in the named locations. A person affected by this provision may apply for a one-year extension to the grace period, conditioned upon a sufficient showing of undue hardship]

Sec. 3 Severability clause

If any section, subsection, sentence or clause of this Article is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Article or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this Article notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

Firearm Dealer Signage

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF TO REQUIRE ALL FIREARM DEALERS TO POST SIGNS AT ALL LOCATIONS WHERE FIREARMS TRANSFERS TAKE PLACE.

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings

Whereas, according to the Centers for Disease Control and Prevention's (CDC's) Fatal Injury Reports for 2015 through 2019, on average 38,826 people die in the United States as a result of firearms every year. Of these firearm deaths, 38% (14,583) are homicides and 60% (23,437) are suicides. An additional 483 deaths annually result from unintentional shootings. Firearms are the leading cause of death for children and teens in the United States;

Whereas, an analysis of the National Emergency Department Sample indicates that there are twice as many gun injuries as gun deaths, an average of 76,127 nonfatal firearms injuries occur per year in the United States;

Whereas, a meta-analysis published in the Annals of Internal Medicine found that access to a gun doubles a person's risk of death by firearm homicide, and triples a person's risk of death by firearm suicide;

Whereas, a study published in the American Journal of Public Health concluded that access to a firearm during an incident of domestic violence leads to a fivefold risk of homicide to women by their intimate partner.

Whereas, a study published in the American Journal of Preventive Medicine found that higher firearm ownership rates are associated with higher domestic firearm homicide rates among both female and male victims. States in the highest quartile of firearms ownership had a 65% higher domestic firearm homicide rate than states in the lowest quartile.

Whereas, a study published in the American Journal of Public Health found a positive and significant association between gun ownership and non-stranger firearm homicide rates, indicating that gun ownership is associated with an increased likelihood of being shot and killed by a family member or acquaintance.

Whereas, a study published in the Journal of the American Medical Association found that households that locked both firearms and ammunition were associated with a 78% lower risk of self-inflicted firearm injuries and an 85% lower risk of unintentional firearm injuries among children, compared to those that locked neither.

Whereas, a study published in the New England Journal of Medicine of more than 26 million California residents found that women who own a handgun are 35 times more likely to die by firearm suicide than women who do not own one. Men who own a handgun are nearly 8 times more likely to die by firearm suicide than men who do not own a handgun. The study also found that the risk of firearm suicide is most pronounced in the year following a person's first acquisition of a handgun, but remains elevated for at least 12 years thereafter.

Whereas, a study published in the Journal of the American Medical Association found that in King County, Washington, using data from 2011 to 2018, for every self-defense homicide, there were 44 suicides, seven criminal homicides, and one unintentional death.

Whereas, research published in the Annals of Internal Medicine found that only 15% of Americans believe that having a firearm in the home increases the risk of suicide, and fewer than 10% of gun owners with children believe that household firearms increase suicide risk;

Whereas, research published in the American Journal of Preventive Medicine found that nearly six-in-ten (57.6%) gun owners believe that a firearm makes their home safer, while only 2.5% believe that guns make their home more dangerous. The same study found that nearly four-in-ten (39.2%) gun owners who believe that guns increase safety store their household firearm(s) loaded and unlocked.

Whereas, research published in Injury Prevention found that people living in households with firearms misperceive their risk of firearm injury as compared to people living in households without firearms. Firearms owners, and non-owners living with firearm owners, are 60% and 46% (respectively) less likely to worry about firearm injury as compared to respondents without guns in the home, despite evidence that firearm access in the home is a strong risk factor for firearm injury.

Whereas, a report by the Pew Research Center on Americans' attitudes towards firearms found that three quarters (75%) of American gun owners say they feel safer with a gun in their household than they would without a gun. The same study found that two-thirds (67%) of gun owners cite protection as a major reason for owning a gun.

Whereas, a study published in the Russell Sage Foundation Journal of the Social Sciences found that almost two out of three gun owners (63%) report that a primary reason they own their gun is for protection against people. Among handgun owners, more than three quarters (76%) cite protection against people as a major reason for owning their firearm(s).

Whereas, the firearms industry actively promotes the misleading message to gun owners and potential consumers that ownership and possession of a firearm makes a person and his or her family safer.

Whereas, the firearms industry's print and online media frequently cites a 25-year-old study estimating that Americans use firearms for self-protection approximately 2.5 million times per year. This research has been the subject of widespread criticism that it is methodologically unsound and that its conclusions do not square with measurable public health outcomes such as hospital visits. Notwithstanding, the firearms industry uses this debunked research and a wide range of other claims in advertising and online and other promotional materials to advance a misleading narrative that defensive firearms use is widespread and that firearms are an effective means of ensuring personal safety.

Whereas, research by Yamane et al. identified a marked increase over time in print media marketing of firearms and firearm-related products specifically for personal protection, home defense, and concealed carry. In these advertisements, firearms and related products are misleadingly marketed and portrayed as effective and/or important means of home-, family-, and/or self-defense. Yamane et al. concluded that this marketing strategy is not only pervasive, but is now the dominant method by which firearms and related accessories are marketed in print media to prospective purchasers.

Whereas, the efficacy of point-of-sale messaging on consumer behavior is well known and well documented. For example, several meta-analyses have found significant evidence that exposure to point-of-sale tobacco marketing leads to increased smoking behavior. Studies have also found a strong correlation between point-of-sale health warnings and consumer perception and behavior. For example, one study found that point-of-sale tobacco health warnings in retail establishments had a significant impact on consumer awareness of tobacco health risks and on consumer behavior--namely, thoughts of quitting smoking. Another study found that calorie labels on menus have a significant impact on ordering behavior, in particular for diners who are the least health conscious. A third study found that point of sale health warnings about sugar sweetened beverages significantly lowered consumption.

SECTION 2. Definitions

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Licensed Firearms Dealer" means any person who is a licensed importer, licensed manufacturer, or dealer licensed pursuant to 18 U.S.C. sec. 923, as amended, as a federally licensed firearms dealer and has obtained all necessary state and local licenses to sell firearms in the state.

B. "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921(a)(3), as amended.

C. "Sale" means the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

D. "Site" means the facility or location where a sale and/or transfer of firearms is conducted.

E. "Transfer" means the intended delivery of a firearm from a dealer to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in Colorado to, or return of such firearm by, any of that entity's employees or agents for lawful purposes in the ordinary course of business.

SECTION 3. Disclosure

A. At any site where firearm sales or transfers are conducted in this County/City of XXXX, a licensed firearms dealer shall conspicuously display a sign containing the information set forth in subsection B in any area where the sales or transfers occur. Such signs shall be posted in a manner so that they can be easily viewed by persons to whom firearms are sold or transferred, and shall not be removed, obscured, or rendered illegible. If the site where the sales or transfers occur are the premises listed on the licensed firearms dealer's federal license(s), an additional such sign shall be placed at or near the entrance.

B. Each informational sign shall be at least eight and one-half inches high by eleven inches wide, and feature black text against a white background and letters that are at least one-half inch high. The signs shall not contain other statements or markings other than the following text, in English [and Spanish]:

WARNING: Access to a firearm in the home significantly increases the risk of suicide, death during domestic violence disputes, and the unintentional death of children, household members, or others. If you or a loved one is experiencing distress and/or depression, call the [hotline] or visit [website].

Posted pursuant to [ordinance citation].

C. The County/City of XXXX shall make available a downloadable sign as described in subsection B of this section in English [and Spanish], and make such sign available on [website].

SECTION 4. Enforcement - Penalties

A. The County/City Law Enforcement Agency is authorized to enforce this chapter consistent with subsection B of this section.

B. When violations of this chapter occur, a warning shall first be given to the licensed firearms dealer or other person in charge of the site. Any subsequent violation is

subject to a fine of up to five hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

C. Only specifically designated enforcement staff of the County/City of XXXX may enforce this chapter and monitor compliance, to ensure appropriate signage is posted at facilities.

SECTION 5. Severability

A. If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.

Ghost Guns Ban

Ordinance XXXXX

AN ORDINANCE AMENDING CHAPTER XXXX, OF TO REGULATE THE POSSESSION OF UNFINISHED FRAMES AND RECEIVERS, AND UNSERIALIZED FIREARMS.

Be it Enacted By the City/County of _____, COLORADO

SECTION 1. Findings

Whereas, there are gaps in our current law that make it easy for people with dangerous histories to purchase widely available firearms parts without a background check and easily convert them into firearms without a serial number.

Whereas, untraceable and unserialized firearms, commonly known as “ghost guns,” are a public safety risk because they allow people with dangerous histories to avoid background check requirements and assemble guns without serial numbers that cannot be traced by law enforcement.

SECTION 2. Definitions

(a) As used in this section:

(1) “Firearm” means

(i) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

- (ii) the frame or receiver of any such weapon;
- (iii) the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver;

Such term does not include an antique firearm as defined in 18 U.S.C. § 921(a)(16).

(2) “Frame or receiver” means the part of a firearm that, when the complete weapon is assembled, is visible from the exterior and provides the housing or structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect those components to the housing or structure. For models of firearms in which multiple parts provide such housing or structure, the part or the parts that the Director of the federal Bureau of Alcohol, Tobacco, Firearms & Explosives has determined are a frame or receiver constitute the frame or receiver.

For the purposes of this paragraph, the term “fire control component” means a component necessary for the firearm to initiate, complete, or continue the firing sequence, and includes a hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(3) “Federal licensee” means a federally licensed firearms manufacturer, importer, or dealer licensed under 18 U.S.C. 923(a), or other federal licensee authorized to identify firearms with serial numbers.

(4) “Unfinished frame or receiver” means any forging, casting, printing, extrusion, machined body or similar article that: (1) has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm; or (2) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

For the purposes of this paragraph, the term “assemble” means to fit together component parts.

In determining whether a forging, casting, printing, extrusion, machined body, or similar article may be readily completed, assembled, or converted to a functional state, the [principle law enforcement agent] may consider any available instructions, guides, templates, jigs, equipment, tools, or marketing materials.

SECTION 3. Prohibitions

- (a) Except as provided in subsection (d), it shall be a noncriminal offense for any person to possess any firearm that has not been identified with a serial number by a federal licensee.
- (b) A first violation of the prohibition in subsection (a) shall result in a fine of \$250. A second or subsequent violation of the prohibition in subsection (a) shall be a criminal

offense.

(c) A violation of subsection (a) that includes a finding that the person possessed one or more firearms that have not been identified with a serial number by a federal licensee with an intent to sell or distribute the firearms unlawfully is a criminal offense.

(d) Subsection (a) shall not apply to

(1) a federal licensee;

(2) an antique firearm, as defined in 18 U.S.C. § 921;

(3) any firearm made before October 22, 1968 (unless remanufactured after that date);
or

(4) A local, state, or federal law enforcement officer who possesses a firearm pursuant to their official duties.