

## ORDINANCE NO. 2234

### AN ORDINANCE ADDING CHAPTER 21.55 ENTITLED "FIREARM PROTECTION ZONE" TO THE MONTEREY PARK MUNICIPAL CODE

The City Council for the City of Monterey Park does ordain as follows:

**SECTION 1:** *Findings.* The City Council finds as follows:

- A. On January 21, 2023, 11 people were murdered and nine were severely injured as the result of a shooting spree by an individual using a modified firearm that may be classified as an assault weapon.
- B. For this Ordinance, the City Council identifies a mass casualty incident ("MCI") as one occurring in a relatively public place, involving four or more deaths – not including the shooter(s) – and shooters who select victims somewhat indiscriminately. The violence in these cases is not a means to an end – the shooters do not pursue criminal profit or kill in the name of terrorist ideologies (see "Public Mass Shootings in the United States: Selected Implications for Federal Public Health and Safety Policy," Congressional Research Service, April 16, 2013, pp.2-3).
- C. The City Council recognizes that the regulation of firearms is controversial. It cannot ignore, however, that the United States has less than 5% of the world's population but 46% of the world's civilian-owned guns (see, e.g., "U.S. Gun Policy: Global Comparisons," Masters, Jonathan, Council on Foreign Relations, June 10, 2022). It ranks number one in firearms per capita (*Id.*) The United States also has the highest homicide-by-firearm rate of the world's most-developed nations (*Id.*). Consequently, this matter is a national and regional health concern that requires immediate, realistic, and practical responses.
- D. Since the beginning of 2023, there have been more than 100 MCIs in the United States including the one in our community on January 21, 2023.
- E. According to the Centers for Disease Control and Prevention ("CDC"), there were 45,222 firearm-related deaths in the United States in 2020. That equates to approximately 124 people dying from a firearm-related injury each day. More than half of firearm-related deaths were suicides and more than 4 out of every 10 were firearm homicides (see "Fast Facts: Firearm Violence Prevention," Centers for Disease Control and Prevention, May 4, 2022).
- F. Studies demonstrate that child-access prevention ("CAP") laws reduce

unintentional firearm injuries and deaths among children (*see, e.g., [www.rand.org/research/gun-policy/analysis/child-access-prevention/unintentional-injuries.html](http://www.rand.org/research/gun-policy/analysis/child-access-prevention/unintentional-injuries.html)*; updated January 10, 2023). Additionally, studies that examined effects on young adults or adults provide limited evidence that these laws may reduce unintentional firearm injuries and deaths among adults as well.

- G. It is vital that the City Council act to the greatest extent possible to protect this community from violence resulting from firearms. While the City of Monterey Park's ability to regulate firearms may be limited, it is empowered by the California Constitution to enact laws to protect public health and safety. Accordingly, this Ordinance is adopted in accordance with the City's police powers as enshrined in Article XI, § 7 of the California Constitution.
- H. In verifying the City's ability to enact the regulations adopted by this Ordinance, the City Council takes note of *Suter v. City of Lafayette* (1997) 57 Cal.App.4<sup>th</sup> 1109 (zoning ordinance confining firearms dealership to commercially zoned areas upheld).
- I. On May 17, 2023, the Planning Commission considered a proposed Ordinance that was drafted in accordance with Resolution No. 2023-R15, adopted March 1, 2023 by the City Council.
- J. Section 3(A) of that Resolution directed the City Manager and City Attorney to draft an ordinance substantially similar to that proposed to the Los Angeles County Board of Supervisors on February 7, 2023.
- K. If adopted, the Ordinance would add a new Chapter to the Monterey Park Municipal Code ("MPMC") regulating firearms dealers within the City's jurisdiction. Most importantly, the Ordinance would create a Firearm Health Protection Zone to separate firearms dealers from certain sensitive receptors, e.g., residences and schools.
- L. The City reviewed the Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, et seq., the "CEQA Guidelines"). CEQA and the CEQA Guidelines are collectively referred to as "CEQA Regulations."
- M. Notice of Public a Hearing before the City Council was duly given and published in the time, form, and manner as required by law; and

- N. On July 19, 2023, the City Council considered this Ordinance. Its findings are made based on the entire administrative record including testimony and evidence presented to the Planning Commission on June 27, 2023, and to the City Council at its July 19, 2023 public hearing, including, without limitation, the staff report submitted by the Community Development Director.

**SECTION 2:** *Factual Findings and Conclusions.* The City Council finds as follows:

- A. The proposed amendments to the Monterey Park Municipal Code (“MPMC”) are consistent with the goals, policies and objectives of the General Plan including, without limitation, Land Use Policy 3.1: “Maintain the quality and character of residential neighborhoods”; Land Use Policy 5.2: “Facilitate safe, convenient, and affordable access to basic services and community-based amenities”; and Land Use Policy 7.3: “Protect neighborhoods from the encroachment of incompatible activities or land uses that may have a negative impact on the residential living environment.”
- B. Among other things, the proposed regulations would prohibit firearm sales within 1000 feet of sensitive receptors which facilitates a safe community, thereby preserving the City’s character. The regulations continue to permit firearm dealers, but confines the use to zones where it will not encroach upon sensitive receptors or otherwise pose a danger to public health, safety, and general welfare.
- C. These regulations will not adversely affect surrounding properties. Such regulations will operate citywide and will not affect a change in the use or the intensity of use of property in any zone.
- D. These regulations promote public health, safety, and general welfare and serve the goals and purposes of the MPMC’s zoning regulations. The proposed regulations ensure that firearm dealership uses do not encroach into sensitive areas and make the community more secure while continuing to allow for a range of commercial services to meet the needs of the community. A review of the City’s records shows that there are two existing firearms dealers located within its jurisdiction.
- E. Both firearms dealers are located outside the health protection zone established by this ordinance.
- F. The City’s records do not show there are any pending applications for establishing a new firearms dealer within the City’s jurisdiction.

**SECTION 3:** *Environmental Assessment.* The City reviewed the environmental impacts of this Ordinance under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the “CEQA Guidelines”). An Initial Study of Environmental Impacts and Negative Declaration (“ND”) were prepared pursuant to CEQA Guidelines § 15063. The public comment period on the ND was from May 1, 2023 to May 21, 2023.

**SECTION 4:** *Notice of Determination.* The City Manager, or designee, is directed to file a notice of determination in accordance with CEQA §§ 21152, 21167(f); CEQA Guidelines § 15094; and any other applicable law.

**SECTION 5:** *Health Protection Zone.* A new Chapter 21.55 is added to the MPMC to read as follows:

**“Chapter 21.55**

**Firearm Health Protection Zone**

**21.55 010. PURPOSE.**

This chapter is adopted in accordance with Article XI, § 7 of the California Constitution for the purpose of protecting the most vulnerable members of the public from death or serious bodily injury resulting from use of a firearm.

**21.55 020. DEFINITIONS.**

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter:

- A. “Area” means surface area, and all measurement of distances is on the surface of the land.
- B. “Health protection zone” means the area within 1,000 feet of a sensitive receptor. The measurement must be made from the property line of the receptor unless the receptor building is more than 50 feet set back from the property line, in which case the measurement is made from the outline of the building footprint to 1,000 feet in all directions.
- C. “Firearms Dealer” means “gunsmith” or “armorer,” as defined by this

code, and has the same meaning as Penal Code § 26700.

D. "Sensitive receptor" means any of the following:

1. A residence, including a private home, condominium, apartment, and living quarter.
2. An education resource, including a preschool, school maintaining transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, daycare center, park, playground, university, and college. A park is an education resource if it is an area that is open to the public for outdoor recreation that is at least partially within one-quarter mile of a residence or another education resource. Only the portion of a park that is within one-quarter mile of a residence or another education resource is considered a sensitive receptor.
3. A community resource center, including a youth center.
4. A health care facility, including a hospital, retirement home, and nursing home.
5. Live-in housing, including a long-term care hospital, hospice, prison, detention center, and dormitory.

**21.55 030. Measuring Distances.**

- A. For the purposes of this Chapter, distances are measured in feet as horizontal distance.
- B. When distance from a sensitive receptor is measured from the property line, the measurement is from the property line directly between the sensitive receptor and the firearms dealer and from the point on the property line that is nearest to the firearms dealer.

**21.55 040. Health Protection Zone Established.**

Health protection zones are established between sensitive receptors and firearms dealers. It is unlawful for any firearms dealers to be located within a health protection zone. The City Attorney is authorized to take any enforcement actions needed to enforce this prohibition in accordance with Title 4 of this code including, without limitation, seeking judicial intervention without additional city council authorization.

**21.55 050. Conditional Use Permit Required.**

A firearms dealer use may be approved within the Shopping Center Zone (S-C) upon being issued a conditional use permit by the Planning Agency in accordance with this Title.”

**SECTION 6:** *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 7:** *Enforceability.* Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 8:** *Limitations.* The City Council’s analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council’s lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City’s ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

**SECTION 9:** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 10:** *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

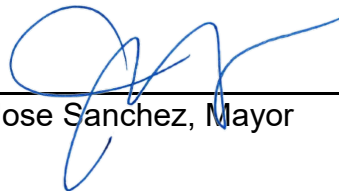
**SECTION 11:** *Publications.* The City Clerk is directed to certify the passage and adoption of this Ordinance; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

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**SECTION 12: *Recording.*** The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Monterey Park's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 13: *Effective Date.*** This Ordinance becomes effective on the 30<sup>th</sup> day following its passage and adoption.

PASSED AND ADOPTED this 2<sup>nd</sup> day of August, 2023.



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Jose Sanchez, Mayor

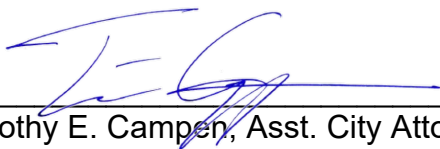
ATTEST:



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Maychelle Yee, City Clerk

APPROVED AS TO FORM:  
KARL H. BERGER, CITY ATTORNEY



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Timothy E. Campen, Asst. City Attorney

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State of California            )  
County of Los Angeles        ) §.  
City Of Monterey Park        )

I, Maychelle Yee, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Ordinance No. 2234 was introduced, and placed upon its first reading at a meeting of the City Council of the City of Monterey Park, held on the 19<sup>th</sup> day of July, 2023. That thereafter on the 2<sup>nd</sup> day of August, 2023, said Ordinance was duly passed, approved and adopted by the following vote:

Ayes:            Council Members: Lo, Yiu, Ngo, Wong, Sanchez  
Noes:            Council Members: None  
Absent:          Council Members: None  
Abstain:         Council Members: None  
Recusal:         Council Members: None

Dated this 2<sup>nd</sup> day of August, 2023.



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Maychelle Yee, City Clerk  
City of Monterey Park, California