

ORDINANCE NO. 2235

AN ORDINANCE ADDING A NEW CHAPTER 13.18 TO THE MONTEREY PARK MUNICIPAL CODE PROHIBITING THE PRESENCE OF FIREARMS ON CITY-OWNED PROPERTY.

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

SECTION 1: Findings. The City Council finds and declares that:

- A. Article XI, section 7 of the California Constitution grants Monterey Park the power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.”
- B. This includes the power to enact regulations that “meet existing conditions of modern life and thereby keep pace with the social, economic, moral and intellectual evolution of the human race.” *Miller v. City of Los Angeles* (1925) 195 Cal. 477.
- C. California law preempts the City’s police powers in discrete areas but allows local government to govern other substantive areas. *Fiscal v City & County of San Francisco* (2008) 158 Cal.App. 4th 895.
- D. The City’s right to control its own property – in the same way as private property owners – is well-established. See, e.g., *District of Columbia v. Heller* (2008) 554 U.S. 570; *Cornelius v. NAACP Legal Defense and Education Fund* (1985) 473 U.S. 788 (quoting *Greer v. Spock* (1976) 424 U.S. 828); *Clark v. Burleigh* (1992) 4 Cal.4th 474; *Calguns Found., Inc. v. County of San Mateo* (2013) 218 Cal.App. 4th 661; Government Code § 37359; Penal Code § 171b(a)(1).
- E. City-owned property is intended to be used only for general governmental functions and service to the public. Except for law enforcement purposes, the presence of firearms on City-owned property serves neither a governmental function nor is it in the public interest. While the City Council recognizes the constitutional protections for individuals to possess weapons, such rights are not unlimited and do not supersede the City’s ability to control its own property.
- F. The City reviewed this 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.”

SECTION 2: A new Chapter 13.18 entitled “Firearms Prohibited on Public Property” is added to the MPMC to read as follows:

“Chapter 13.18

Firearms Prohibited on Public Property

13.18.010. Purpose.

This chapter is adopted pursuant to Article XI, section 7 of the California Constitution for the purpose of prohibiting the possession of firearms on all City-owned property within the City of Monterey Park. The regulations set forth in this chapter are specifically intended to strike a reasonable balance between an individual’s Constitutional rights and the City’s obligations to protect public health and safety.

13.18.020. 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. “Firearm” has the same meaning as Penal Code § 16520, as may be amended.
- B. “Locked Container” means a locked container as defined in Penal Code § 16850, as may be amended, and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.
- C. “Public Property” means all real property and facilities owned by the city in fee simple; all public ways as defined by Streets and Highways Code § 18609; all public service easements as defined in Streets and Highways Code § 8306; and all real property in which the City has a possessory interest. Public Property includes, without limitation, City Hall; the Bruggemeyer Library; the Corporation Yard; all parks and recreation facilities; all parking facilities; and all fire stations.
- D. “Unloaded” means that there is no ammunition in either the chamber or magazine of the firearm.

13.18.030. Prohibitions.

It is unlawful for any person to possess any firearm on public property. This prohibition includes, without limitation, persons who possess a concealed weapons permit issued in accordance with California law.

13.18.040. Exceptions. The prohibition in this chapter does not apply:

- A. Where the United States or California Constitutions allow possession of a firearm.
- B. To law enforcement officers authorized to carry a firearm.
- C. Transportation of unloaded firearms in a locked container.”

SECTION 3: Environmental Assessment. This Ordinance was reviewed pursuant to CEQA. Adopting this Ordinance is exempt from further environmental review because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; minor alterations in land use; new construction of small structures; and minor structures accessory to existing commercial facilities. The Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303, 15304(e); 15305; and 15311. Further, the adopting the ordinance is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Individual projects utilizing these regulations will each be separately subject to an environmental assessment. Finally, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.

SECTION 4: 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 5: Enforceability. Repeal of any provision of the MPMC 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 6: Reliance on Record. Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 7: 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 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 8: Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

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: Recording. The City Clerk, or her duly appointed deputy, 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 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11: Electronic Signatures. This Ordinance 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 12: Execution. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Ordinance signifying its adoption by the City Council of the City of Monterey Park, and the City Clerk, or duly appointed deputy, is directed to attest thereto.

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

PASSED AND ADOPTED this 6th day of September, 2023.



Jose Sanchez, Mayor

ATTEST:



Maychelle Yee, City Clerk

APPROVED AS TO FORM:




Karl H. Berger, City Attorney

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. 2235 was introduced, and placed upon its first reading at a meeting of the City Council of the City of Monterey Park, held on the 16th day of August, 2023. That thereafter on the 6th day of September, 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 6th day of September, 2023.



Maychelle Yee, City Clerk
City of Monterey Park, California