



APPROVED
BY THE CITY COUNCIL

MAR 14 1989

OFFICE OF THE
CITY CLERK

812 TENTH STREET
SACRAMENTO, CA
95814-2694

916-449-5346

DEPUTY CITY ATTORNEYS
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OFFICE OF THE
CITY ATTORNEY

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

City Council
Sacramento, California

Re: Assault Weapons Ordinance

Honorable Members in Session:

SUMMARY

This report is in response to a request by Mayor Rudin for an ordinance banning the possession and sale of assault weapons in the City of Sacramento. In accordance with Mayor Rudin's request, this ordinance has been drafted for direct presentation to the City Council without prior presentation to the Law and Legislation Committee.

This ordinance is on the March 7, 1989 City Council agenda for passage for publication. There would be no public discussion at the March 7, 1989 Council meeting. There would be a hearing and public discussion at the March 14, 1989 City Council meeting. The Chief of Police will also present testimony at the March 14th meeting.

BACKGROUND

Mayor Rudin asked our office to review the ordinance passed by the City of Stockton. We have done this and have also reviewed ordinances adopted by the cities of Los Angeles, Santa Clara and San Jose. We have also reviewed SB 292, currently pending in the California State Senate. Each of these documents contained language which gave rise to several potential problems. The attached ordinance drafted for presentation to the Sacramento City Council contains language similar to various provisions of the city ordinances and senate bill but has been modified to correct the potential problems.

This ordinance defines "assault weapons" as a general class rather than a list of specific makes and models. The definition limits the number of rounds which semiautomatic weapons may contain. In addition, the ordinance prohibits the possession of any part or combination of parts designed to convert a firearm into an assault weapon. Persons who currently possess assault weapons will be granted a 60-day grace period in which to remove the weapons from city limits,

PASSED FOR
PUBLICATION
& CONTINUED
TO 3-14-89

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City Council
March 3, 1989
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transfer ownership to a licensed weapons dealer or surrender them to the Police Department. An individual who acquires ownership of an assault weapon in the future, such as by will or intestate succession, will have 60 days from the date of acquisition to comply with the ordinance. The ordinance exempts from its prohibition military and law enforcement agencies. Federal law, embodied in the Gun Control Act of 1968, has been held not to preempt more stringent local laws. Our ordinance has been drafted to regulate only in an area which is not currently regulated by state law, thereby avoiding state law preemption.

FINANCIAL DATA

There is no information upon which to base an estimate of the cost of enforcing this ordinance.

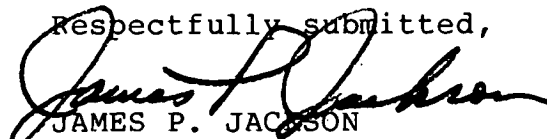
MBE/WBE

No impact.

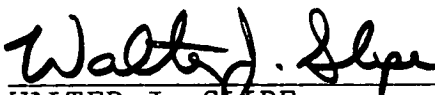
RECOMMENDATION

That the attached ordinance amending Chapter 48 of the Sacramento City Code be presented for consideration by the City Council.

Respectfully submitted,


JAMES P. JACKSON
City Attorney

RECOMMENDATION APPROVED:


WALTER J. SIPE
City Manager

March 7, 1989
All Districts

Contact Person to
Answer Questions:

SAMUEL L. JACKSON
Deputy City Attorney
449-5346

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING CHAPTER 48 OF THE
SACRAMENTO CITY CODE TO PROHIBIT THE SALE
AND POSSESSION OF ASSAULT WEAPONS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council of the City of Sacramento finds:

a. The proliferation and use of assault weapons pose a present and serious threat to the health, safety, welfare and security of the residents of the City of Sacramento;

b. An alarming number of assault weapons are readily and commercially available to all elements of our society with little or no restriction;

c. Assault weapons are both capable of rapid rate of fire and have the capacity to fire an inordinately large number of rounds without the necessity of reloading;

d. Assault weapons are designed primarily for military or anti-personnel use, and as such have no legitimate sporting, recreational or other purpose in civilian life.

e. Due to their higher rate of fire, assault weapons pose an even greater danger to the public safety than other kinds of firearms which are currently regulated under state law.

f. Assault weapons are not subject to State of California sales or licensing procedures, or application requirements for the sale and purchase of firearms capable of being concealed on the person.

g. The public has significant concern about the danger these weapons pose and interest in immediately removing such weapons from the City of Sacramento. It is therefore the intent of the City

Council of the City of Sacramento to place necessary and reasonable restrictions on the sale and possession of assault weapons, while placing no restrictions on the right of citizens to sell and possess weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

SECTION 2.

Section 48.11 is hereby added to the Sacramento City Code to read as follows:

Sec. 48.11 Possession and Sale of Assault Weapons Prohibited.

- (a) Assault Weapon Defined. For the purpose of this section, "assault weapon" shall be defined as:
 - (1) All semiautomatic action, centerfire rifles that accept detachable magazines with a capacity of 10 or more rounds.
 - (2) All semiautomatic shotguns with a barrel of less than 19 inches and a folding stock or a magazine capacity of more than 6 rounds.
 - (3) All semiautomatic pistols, as defined in California Penal Code §12001, that are modifications of rifles described in paragraph (1); that is, having the same make, caliber, and action design but a shorter barrel and no rear stock, or that are semiautomatic weapons originally designed to accept magazines with a capacity of 10 or more rounds.
 - (4) Any weapon which may be readily restored or converted to an operable assault weapon as defined in either paragraph (1) or (2) above.
 - (5) Any part, or combination of parts, designed or intended to convert a firearm into an assault weapon, or 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) Exclusions From "Assault Weapon" Definition. For the purpose of this section, "assault weapon" does not include any of the following:
 - (1) Any weapon which is a "machine gun" prohibited by California Penal Code §12200.
 - (2) Any pistol, revolver or other firearm which is capable of being concealed upon one's person, as defined and

regulated by the provisions of California Penal Code §12001.

- (3) Any weapon which is specified and subject to the limitations and requirements in paragraphs (5), (7) and (8) of subdivision (b) of §12020 of the California Penal Code;
- (4) Any assault weapon, as defined in this section, which has been modified either to render it permanently inoperable or to make it permanently a device no longer defined as an assault weapon.
- (5) Except as otherwise provided herein, any weapon that does not use fixed ammunition, any weapon that was in production prior to 1898, any manually-operated bolt-action weapon, any lever-action weapon, any slide-action weapon, any single-shot weapon, any multiple-barrel weapon, any revolving-cylinder weapon, any semiautomatic weapon with a fixed magazine capacity of 10 or less rounds, any semiautomatic weapon that uses exclusively Mannlicher-style clips, any semiautomatic weapon in production prior to 1954, and any rimfire weapon that employs a tubular magazine.

(c) Definitions.

- (1) Person Defined. For the purpose of this section, "person" is defined as any individual, corporation, company, association, firm, partnership, club or society.
- (2) Semiautomatic Defined. For the purpose of this section, "semiautomatic" is defined as any weapon which fires a single projectile for each single pull of the trigger and which employs a magazine or clip with a capacity of 10 or more rounds.
- (3) Rifle Defined. For the purpose of this section, "rifle" is defined as a weapon, whether or not it is intended to be fired from the shoulder, that is designed or redesigned, made or remade to fire a fixed cartridge and is not a "pistol", as defined in California Penal Code §12001 et seq.
- (4) Shotgun Defined. For the purpose of this section, "shotgun" is defined as a weapon, whether or not it is intended to be fired from the shoulder, that is designed or redesigned, made or remade, to fire a fixed shotgun shell.

(d) Prohibition.

Except as otherwise regulated by state law or federal law, no person, including but not limited to wholesale and retail gun dealers,

shall sell, offer or display for sale, give, lend or transfer ownership of, or possess any assault weapon. Any person who sells or possesses any assault weapon in the City of Sacramento in violation of this section is guilty of a misdemeanor.

(e) Removal; Transfer; Exemptions.

Notwithstanding the provisions of subsection (d) of this section:

- (1) Any person who, prior to the effective date of this section, was legally in possession of a weapon prohibited by this section or who subsequently obtains title to an assault weapon by bequest or intestate succession shall, within sixty (60) days of the effective date hereof or the date of acquisition, whichever occurs later, remove said assault weapon from within the limits of the City of Sacramento, or transfer title and possession of the weapon to a dealer licensed pursuant to Article 4 of the California Penal Code, commencing at \$12250, or to the Sacramento Police Department;
- (2) An assault weapon may be possessed by any federal, state, or local historical society, museum or institutional collection which is open to the public, provided any such weapon is properly housed, secured from unauthorized handling and is unloaded;
- (3) An assault weapon may be maintained in the possession of an entity or establishment engaged in the business of motion picture, television or video production, but only for the purpose of being utilized as a prop during the course of motion picture, television or video production by an authorized participant therein or by an authorized agent or employee of the entity or establishment, and only if the entity or establishment properly secures such assault weapon from unauthorized use.
- (4) Nothing in this section shall prohibit the acquisition or possession of assault weapons by police departments, sheriff's departments, marshal's offices, the California Highway Patrol, other local, state and federal law enforcement agencies, or the military forces of this state or the military and naval forces of the United States for use in the discharge of their official duties; nor shall anything in this section prohibit the possession of assault weapons by any regular, salaried, full-time officer, employees or agents of such agencies when on duty and the use of assault weapons is within the scope of their duties; nor shall anything in this section prohibit the possession of pistols by any peace officer as defined in Penal Code Sections 830.1 and 830.2 whether such peace officer is active or honorably

retired.

- (5) This section shall not apply to authorized officers, employees, or agents of a municipal utility district operating a nuclear power plant when federal regulations require the possession of such weapons and while such officers, employees, or agents are engaged in the performance of their duties.
- (6) Nothing in this section shall prohibit the storage of any weapon which is defined as an "assault weapon" herein, where such storage is for the specific purpose of maintaining an inventory for sale exclusively to law enforcement agencies and properly licensed firearms dealers.

(f) Severability.

If any provision of this section, or the application thereof to any person or circumstances is held invalid, the remainder of this section, and the application of such provision(s) to other persons or circumstances, shall not be effected thereby.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

17-1
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d. Assault weapons are designed primarily for military or anti-personnel use, and as such have no legitimate sporting, recreational or other purpose in civilian life.

e. Due to their higher rate of fire, assault weapons pose an even greater danger to the public safety than other kinds of firearms which are currently regulated under state law.

f. Assault weapons are not subject to State of California sales or licensing procedures, or application requirements for the sale and purchase of firearms capable of being concealed on the person.

g. The public has significant concern about the danger these weapons pose and interest in immediately removing such weapons from the City of Sacramento. It is therefore the intent of the City

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regulated by the provisions of California Penal Code §12001.

- (3) Any weapon which is specified and subject to the limitations and requirements in paragraphs (5), (7) and (8) of subdivision (b) of §12020 of the California Penal Code;
- (4) Any assault weapon, as defined in this section, which has been modified either to render it permanently inoperable or to make it permanently a device no longer defined as an assault weapon.
- (5) Except as otherwise provided herein, any weapon that does not use fixed ammunition, any weapon that was in production prior to 1898, any manually-operated bolt-action weapon, any lever-action weapon, any slide-action weapon, any single-shot weapon, any multiple-barrel weapon, any revolving-cylinder weapon, any semiautomatic weapon with a fixed magazine capacity of 10 or less rounds, any semiautomatic weapon that uses exclusively Mannlicher-style clips, any semiautomatic weapon in production prior to 1954, and any rimfire weapon that employs a tubular magazine.

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(e) Removal; Transfer; Exemptions.

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- (1) Any person who, prior to the effective date of this section, was legally in possession of a weapon prohibited by this section or who subsequently obtains title to an assault weapon by bequest or intestate succession shall, within sixty (60) days of the effective date hereof or the date of acquisition, whichever occurs later, remove said assault weapon from within the limits of the City of Sacramento, or transfer title and possession of the weapon to a dealer licensed pursuant to Article 4 of the California Penal Code, commencing at \$12250, or to the Sacramento Police Department;
- (2) An assault weapon may be possessed by any federal, state, or local historical society, museum or institutional collection which is open to the public, provided any such weapon is properly housed, secured from unauthorized handling and is unloaded;
- (3) An assault weapon may be maintained in the possession of an entity or establishment engaged in the business of motion picture, television or video production, but only for the purpose of being utilized as a prop during the course of motion picture, television or video production by an authorized participant therein or by an authorized agent or employee of the entity or establishment, and only if the entity or establishment properly secures such assault weapon from unauthorized use.
- (4) Nothing in this section shall prohibit the acquisition or possession of assault weapons by police departments, sheriff's departments, marshal's offices, the California Highway Patrol, other local, state and federal law enforcement agencies, or the military forces of this state or the military and naval forces of the United States for use in the discharge of their official duties; nor shall anything in this section prohibit the possession of assault weapons by any regular, salaried, full-time officer, employees or agents of such agencies when on duty and the use of assault weapons is within the scope of their duties.

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(f) Severability.

If any provision of this section, or the application thereof to any person or circumstances is held invalid, the remainder of this section, and the application of such provision(s) to other persons or circumstances, shall not be effected thereby.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

Office of the Sacramento City Council

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CITY CLERKS OFFICE
CITY OF SACRAMENTO

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MEMORANDUM

March 8, 1989

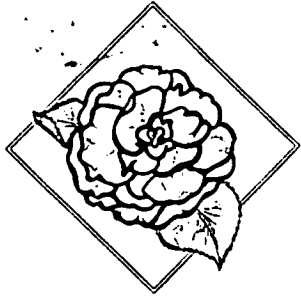
TO: Anne Mason, Acting City Clerk

FROM: Terry Kastanis, Councilmember, District 7

SUBJECT: ANTI-GUN ORDINANCE

I would like the attached information made a part of and included in the agenda packet for next week regarding the above mentioned issue.

If you have any questions, please call me. Thanks.



Sacramento City Unified School District

1619 N Street • Sacramento, California • 95814 • (916) 454-8671

Dr. Keith T. Larick, Superintendent

*Part of affable
raised packet for
multimedia*

February 22, 1989

The Honorable Terry Kastanis
Councilman, City of Sacramento
City Hall
Sacramento, CA 95814

Dear Mr. Kastanis:

I know that you share the Sacramento City Unified School District's concern about school safety and insuring a safe climate at all of our schools. At the Public Hearing Meeting of the Board of Education on Tuesday, February 21st, the Board unanimously adopted Resolution No. 1407 in support of legislation to ban assault weapons. I have enclosed a copy of that resolution for your information and review.

On behalf of the Board of Education and the staff of the Sacramento City Unified School system, I encourage you to consider a similar resolution in support of a ban on assault weapons.

Sincerely,

Keith T. Larick
Superintendent

KTL:lc
misc4.doc

Enclosure

ASSAULT WEAPONS

RESOLUTION NO. 1407

- WHEREAS, Semiautomatic assault weapons, with their enormous firepower, indiscriminate capacity to kill, and ready availability have become the weapon of choice for street gangs, drug dealers and mass murderers, resulting in the daily massacre of innocent victims on our streets and have been used with increasing frequency in attacks against children in school yards; and
- WHEREAS, The danger of these weapons being used to injure or kill human beings far outweighs the legitimacy of their use for sports and recreation purposes and
- WHEREAS, State legislation has been introduced, SB 292 (Roberti) and AB 357 (Ross), which would ban the future sale and use of assault weapons; and
- WHEREAS, Enactment of these bills would help to protect the children and other members of this community against injury or death caused by the illegal use of semiautomatic assault weapons; and, therefore, be it
- RESOLVED, That the Sacramento City Unified School District Board of Education endorses and will give its full support to SB 292 and AB 357 and similar legislation which outlaw the importation, sale or use of assault weapons in California; and be it further
- RESOLVED, That the Sacramento City Unified School Board and resolution will encourage action through its members and staff, and will call on all residents of this district to immediately petition, write or call their State Senator, State Assembly Member, and their local County Supervisor in support of these measures; and be it further
- RESOLVED, That the Sacramento City Unified School Board support the enactment of a local ban and confiscation of assault weapons by the Sacramento City Council;

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of Sacramento City Unified School District supports the banning and future sale and use of assault weapons, and that this position be conveyed to the members of the California Legislature who represent the Sacramento City Unified School District.

IN WITNESS WHEREOF, adopt resolution no. 1407, this 21st day of February, 1989.

Keith T. Larick

Keith T. Larick
Superintendent
and Secretary

Date: 2/21/89

Ida A. Russell

Edna L. Nicksy

Nancy Finkler

Lea L. Smith

Melody E. Harding

Louise A. Perry

Bill Camp

Members, Board of Education
Sacramento City Unified School District