

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Sarah Zárate

SUBJECT: GUN HARM REDUCTION
ORDINANCE UPDATE

DATE: October 21, 2022

Approved



Date

10/21/22

INFORMATION

This memorandum provides an update on implementation of the Gun Harm Reduction Ordinance. Approved by the City Council at its January 25, 2022 meeting, the ordinance establishes two requirements for gun owners in San José: an insurance requirement that mandates gun owners to maintain homeowner's, renter's or gun liability insurance policy that covers losses or damages resulting from any accidental use of their firearm, and a Gun Harm Reduction Fee, which gun owners must pay annually to a nonprofit organization designated by the City. At the June 16, 2022 meeting of the Public Safety, Finance and Strategic Support (PSFSS) Committee, staff [provided an update](#) on implementation plans for the ordinance.

As indicated in the update to the PSFSS Committee, the insurance requirement will come into effect on January 1, 2023. Staff has recently accomplished two milestones necessary to implement the insurance requirement on that date, as follows:

- **Gun Liability Insurance Attestation Form:** Staff has published an attestation form that San José gun owners will use to certify that they have insurance as required by the ordinance (or, alternatively, indicate that they qualify for one of the three exemptions established in the ordinance). Gun owners are not required to submit this form to the City—rather, they should complete it and keep it with their guns at all times to demonstrate compliance with the ordinance. The form is included with this memorandum as Attachment A and is also available on the [Police Department website](#).
- **City Manager Regulations:** The ordinance provides that the City Manager may promulgate regulations necessary to implement the ordinance. On October 21, 2022, staff published a revised version of the regulations, included with this memorandum as Attachment B. The revised regulations set January 1, 2023 as the implementation date for the ordinance's insurance requirement, establish the attestation form described above, define the criteria for a hardship exemption, and describe other exemptions.

As a next step, staff will begin a public outreach campaign to inform gun owners of the January 1, 2023 implementation date for the insurance requirement and provide instructions on how to comply with the requirement through the attestation form.

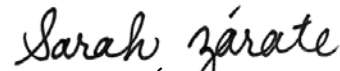
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Staff is also working towards implementation of the Gun Harm Reduction Fee. On October 11, 2022, staff issued a Request for Information (RFI) that asks nonprofit organizations to supply information on an implementation model for the fee. The RFI closes on November 1, 2022. Staff will use responses to this RFI to help inform next steps on implementation of the fee.



SARAH ZÁRATE

Director

Office of Administration, Policy and
Intergovernmental Relations

For questions, please contact Peter Hamilton, Assistant to the City Manager, at (408) 535-7998.

Attachments:

Attachment A: Gun Liability Insurance Attestation Form

Attachment B: City Manager Regulations for the Gun Harm Reduction Ordinance

Gun Liability Insurance Attestation Form

Section 1: Description

To be compliant with the Gun Harm Reduction Ordinance, gun owners and those in possession of guns must have a current homeowner's, renter's or gun liability insurance policy for their firearm(s) and ensure that the policy covers losses or damages resulting from accidental use of the firearm, including but not limited to death, injury, or property damage. Exemptions are listed below.

Gun owners and those in possession of guns in the City of San José must complete the below insurance attestation form by January 1, 2023. The form must be accurately completed and kept with the firearm(s) at all times. It does not need to be submitted to the City.

Non-compliance may result in fines. For more information about San José's Gun Harm Reduction Ordinance, and City Manager issued regulations, go to: <https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance>

Description of exemptions:

- A. Those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. *(Need to provide proof of eligibility for the exemption - show ID from issuing agency upon request; police to verify employment upon contact)*
- B. Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. *(Need to provide proof of eligibility for the exemption – show CCW license upon request)*
- C. Those persons for which compliance with this Part would create a financial hardship. (See back side of form)

Section 2: Exemptions

I claim the following exemption because: (Please select one)

- A. I am designated as a peace officer pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. *(I will show ID from issuing agency upon request)*
- B. I have a license to carry a concealed weapon pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. *(I will show CCW license upon request)*
- C. This requirement would create a financial hardship. *(I attached proof of income)*

Section 3: Insurance Coverage

Name of firearm owner:

Name of Insurance Company (issuing the policy):

Address of Insurance Company:

Phone:

Insurance Policy Number:

Effective Date:

Expiration Date:

Section 4: Acknowledgment

I do, hereby attest that this information is true and I will provide proof of compliance (sign the form under penalty of perjury and keep form with firearms where they are stored or transported).

Signature

Date

Section 5: Financial Hardship Exemption Worksheet

An individual qualifies for financial hardship if their household income is at or below the extremely low-income threshold for Santa Clara County, adjusted for household size, according to the Area Median Income (AMI) calculations released annually by the California Department of Housing and Community Development (HCD). (The extremely low-income threshold is set at 30% of AMI.)

To claim the financial hardship exemption, complete the required information below, including stating your household size and gross household income.

Number of persons in my household:

Gross household income:

To qualify for a financial hardship exemption your gross household income cannot exceed 30% of AMI adjusted for your household size. Please review the information in the table below to determine if you qualify.

If your income is at or below the allowed limit, you may claim a Financial Hardship Exemption in Section 2 of this form. You must provide proof of financial hardship and attach a copy of your current Federal Income Tax Return (form 1040) to this Attestation Form. **The Social Security number on the form 1040 should be redacted.**

Household Size	Area Median Income (AMI) 30%
1 Person	\$ 35,400
2 Person	\$ 40,450
3 Person	\$ 45,500
4 Person	\$ 50,550
5 Person	\$ 54,600
6 Person	\$ 58,650
7 Person	\$ 62,700
8 Person	\$ 66,750
9 Person household and larger	For every additional person over 8, add \$4050 to the income threshold for 8 person households



**CITY MANAGER REGULATIONS
FOR
THE GUN HARM REDUCTION ORDINANCE**

Issued by the City Manager

Sarah Zarate

Sarah Zarate
Director of Administration, Policy, and Intergovernmental Relations
Office of the City Manager

EFFECTIVE: October 21, 2022

PART I - GENERAL PROVISIONS

SECTION 1-1. PURPOSE AND AUTHORITY

The Gun Harm Reduction Ordinance, set forth in Title 10, Chapter 10.32, Part 6 of the San José Municipal Code (“SJMC” or “Code”), provides that individuals who own or possess firearms and reside in the City of San José (“City”) must maintain liability insurance covering losses or damages resulting from any accidental use of their firearm and pay an annual gun harm reduction fee. These regulations implement the provisions of SJMC Chapter 10.32, Part 6 and are issued by the City Manager under the authorization granted pursuant to SJMC Section 10.32.235. These regulations are not intended to be exhaustive and can be amended at any time by the City Manager. These regulations shall be referred to as the “City Manager Regulations for the Gun Harm Reduction Ordinance.”

SECTION 1-2. DEFINITIONS AND CONSTRUCTION

The definitions set forth in SJMC Chapter 10.32 Part 6, and herein, shall govern the application and interpretation of these regulations. Any reference to federal, state or local statutes and ordinances includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute, ordinance or regulatory provision.

PART II – IMPLEMENTATION TIMELINE

SECTION 2-1. LIABILITY INSURANCE REQUIREMENT OPERATIVE DATE

Firearm owners residing in San José who are required by SJMC section 10.32.210 to obtain liability insurance shall obtain such insurance by January 1, 2023.

SECTION 2-2. ANNUAL GUN HARM REDUCTION FEE PAYMENT DATE

SJMC section 10.32.215 provides that the date by which payment of the Gun Harm Reduction Fee shall be made annually will be set by regulations promulgated by the City Manager. This version of the City Manager Regulations for the Reduction of Gun Harm Ordinance does not set a payment date; a payment date will be established in an amended version of these regulations to be issued in the future. Individuals covered by the Gun Harm Reduction Fee are not required to pay the fee until a payment date is set through the amended regulations.

PART III – INSURANCE REQUIREMENT ATTESTATION FORM

SECTION 3-1. INSURANCE REQUIREMENT ATTESTATION FORM ESTABLISHED

Individuals subject to the insurance requirement must demonstrate compliance with the requirement by completing and executing an Attestation Form. The form included with these regulations as Exhibit A shall be used for this purpose. The attestation form shall be kept with the subject individual’s firearm(s) where they are being stored or transported.

PART IV – EXEMPTIONS

SECTION 4-1. PEACE OFFICER EXEMPTION

SJMC section 10.32.225 provides that those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers are exempted from the Gun Harm Reduction Ordinance. In any instance where they would otherwise be required to present the attestation form to demonstrate compliance with the ordinance, a person claiming the peace officer exemption must instead present a valid identification card, issued by a law enforcement agency, that indicates that the person claiming the exemption is a peace officer. If an individual claiming this exemption cannot present a valid identification card as described above, then they are not covered by the exemption and are subject to the requirements of the ordinance.

SECTION 4-2. CONCEALED WEAPON LICENSE EXEMPTION

SJMC section 10.32.225 provides that those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155 are exempted from the Gun Harm Reduction Ordinance. In any instance where they would otherwise be required to present the attestation form to demonstrate compliance with the ordinance, any person claiming the concealed weapon license exemption must instead present their license to carry a concealed weapon. If an individual claiming this exemption cannot present their license, then they are not covered by the exemption and are subject to the requirements of the ordinance.

SECTION 4-3. FINANCIAL HARDSHIP EXEMPTION

SJMC section 10.32.225 provides that those persons for which compliance with the Gun Harm Reduction Ordinance would create a financial hardship are exempted from the ordinance. SJMC section 10.32.235 provides that the criteria by which a person can claim a financial hardship exemption shall be defined through regulations issued by the City Manager.

An individual qualifies for financial hardship if their household income is at or below the Extremely Low Income threshold for Santa Clara County, adjusted for household size, according to the Area Median Income (AMI) calculations released annually by the California Department of Housing and Community Development (HCD). (The Extremely Low Income threshold is set at 30% of AMI.) HCD does not calculate the Extremely Low Income threshold for households of nine individuals or larger. For these households, the financial hardship standard shall be calculated by taking the difference between the threshold for households of eight individuals and households of seven individuals, multiplying the difference by the number of individuals in the household in excess of eight, and adding the product to the Extremely Low Income threshold for a household of eight individuals.

To claim the financial hardship exemption, individuals must state their gross household income and the size of their household on the Attestation Form to show that they meet the hardship threshold, and sign the form under penalty of perjury. They must also attach a copy of their

current Federal Income Tax Return (form 1040) to the Attestation Form. The Social Security number on the form 1040 should be redacted.

PART V – ENFORCEMENT

SECTION 5-1. ADMINISTRATIVE CITATIONS

Gun owners in San José found to be in violation of the Gun Harm Reduction Ordinance and who cannot show proof that they qualify for an exemption from the ordinance, as specified in Part IV of these regulations, will be subject to an administrative citation and associated fine, as specified in SJMC section 10.32.240.

Exhibit A



Gun Liability Insurance Attestation Form

Section 1: Description

To be compliant with the Gun Harm Reduction Ordinance, gun owners and those in possession of guns must have a current homeowner's, renter's or gun liability insurance policy for their firearm(s) and ensure that the policy covers losses or damages resulting from accidental use of the firearm, including but not limited to death, injury, or property damage. Exemptions are listed below.

Gun owners and those in possession of guns in the City of San José must complete the below insurance attestation form by January 1, 2023. The form must be accurately completed and kept with the firearm(s) at all times. It does not need to be submitted to the City.

Non-compliance may result in fines. For more information about San José's Gun Harm Reduction Ordinance, and City Manager issued regulations, go to: <https://www.sjpd.org/records/documents-policies/gun-harm-reduction-ordinance>

Description of exemptions:

- A. Those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. *(Need to provide proof of eligibility for the exemption - show ID from issuing agency upon request; police to verify employment upon contact)*
- B. Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. *(Need to provide proof of eligibility for the exemption – show CCW license upon request)*
- C. Those persons for which compliance with this Part would create a financial hardship. (See back side of form)

Section 2: Exemptions

I claim the following exemption because: (Please select one)

- A. I am designated as a peace officer pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers. *(I will show ID from issuing agency upon request)*
- B. I have a license to carry a concealed weapon pursuant to California Penal Code § 26150 or § 26155, for as long as these statutes are legally enforceable. *(I will show CCW license upon request)*
- C. This requirement would create a financial hardship. *(I attached proof of income)*

Section 3: Insurance Coverage

Name of firearm owner: Click or tap here to enter text.

Name of Insurance Company (issuing the policy): Click or tap here to enter text.

Address of Insurance Company: Click or tap here to enter text.

Phone: Click or tap here to enter text.

Insurance Policy Number:

Click or tap here to enter text.

Effective Date:

Expiration Date:

Section 4: Acknowledgment

I do, hereby attest that this information is true and I will provide proof of compliance (sign the form under penalty of perjury and keep form with firearms where they are stored or transported).

Signature

Date

Section 5: Financial Hardship Exemption Worksheet

An individual qualifies for financial hardship if their household income is at or below the extremely low-income threshold for Santa Clara County, adjusted for household size, according to the Area Median Income (AMI) calculations released annually by the California Department of Housing and Community Development (HCD). (The extremely low-income threshold is set at 30% of AMI.)

To claim the financial hardship exemption, complete the required information below, including stating your household size and gross household income.

Number of persons in my household: Click or tap here to enter text.

Gross household income: Click or tap here to enter text.

To qualify for a financial hardship exemption your gross household income cannot exceed 30% of AMI adjusted for your household size. Please review the information in the table below to determine if you qualify.

If your income is at or below the allowed limit, you may claim a Financial Hardship Exemption in Section 2 of this form. You must provide proof of financial hardship and attach a copy of your current Federal Income Tax Return (form 1040) to this Attestation Form. **The Social Security number on the form 1040 should be redacted.**

Household Size	Area Median Income (AMI) 30%
1 Person	[insert]
2 Person	[insert]
3 Person	[insert]
4 Person	[insert]
5 Person	[insert]
6 Person	[insert]
7 Person	[insert]
8 Person	[insert]
9 Person household and larger	For every additional person over 8, add [insert] to the income threshold for 8 person households