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File #: 18-0234, Version: 1

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### **REPORT TO COUNCIL**

#### **SUBJECT**

Direct the Office of the City Attorney to Research and Return to City Council with an Ordinance Restricting the Purchase of Semi-Automatic Centerfire Rifles by Persons under 21, with Exemptions for Active-Duty Military and Law Enforcement Personnel

#### **EXISTING POLICY**

General Plan Goal SN-3: Ensure a safe and secure environment for people and property in the community by providing effective public safety response and prevention and education services.

General Plan Police SN-3.2: Control conduct recognized as threatening to life and property.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not require review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it may have an impact on the environment. (CEQA Guidelines Section 15061(b)(3))

#### **DISCUSSION**

Semi-automatic centerfire rifles, such as the AR-15, are a popular type of sporting rifle that can be legally used for hunting and target shooting. Unlike military rifles, semi-automatic rifles do not have a fully automatic or “burst” mode. That is, the rifle can only fire one round per trigger pull. Nevertheless, AR-15 style rifles can be fired rapidly and have large magazines that are easy to swap out, potentially releasing over a hundred rounds within a few minutes. These types of rifles have been used in a number of recent mass-shooting incidents including Parkland, Florida; Las Vegas; San Bernardino; Newtown, Connecticut; and Aurora, Colorado. The incident at Stoneman Douglas High School in Parkland, Florida, which killed 17 people, was perpetrated by a 19-year-old former student who had legally purchased the AR-15 style rifle used in the attack.

The recent shooting at Stoneman Douglas High School has called attention to the differing legal treatment of handguns and long guns (rifles and shotguns). Both state and federal law prohibit sale or transfer of firearms to minors under age 18, with certain exceptions. Persons under 21 are also restricted from purchasing handguns. However, adults over 18 are generally allowed to obtain long guns, including powerful AR-15 style rifles, unless they have a prior felony conviction, involuntary mental health commitment, or other disqualifying event in their background. Raising the age limit for purchase of semi-automatic centerfire rifles may potentially help prevent or reduce the number of casualties in future mass shooting incidents.

**Summary of Firearms Age Restrictions**

	FEDERAL LAW (18 U.S.C. §922)			CALIFORNIA LAW (Penal Code §§27505, 29610-29615)	
	Sale/Transfer by FFLs*	Sale/Transfer by non-FFLs	Possession	Sale/ Transfer	Possession
<b>Handguns</b>	21	18	18**	21	18**
<b>Long Guns</b>	18	--	--	18	--

\*FFL = federally licensed firearms dealer.

\*\*With exceptions for certain activities such as farming, ranching, hunting, or target practice with parental permission or consent.

Article XI, Section 7 of the California Constitution provides that “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Under this constitutional provision, the City’s police power is as broad of the state Legislature’s power, and the City may act to protect the welfare of its residents. The City’s police power includes the power to regulate firearms (Galvan v. Superior Court of City & County. of San Francisco, (1969) 70 Cal. 2d 851.), unless the ordinance conflicts with state law. The California Legislature has expressly preempted certain areas of gun regulation. Local agencies may adopt an ordinance with more restrictive regulations if those regulations have not been expressly or implicitly preempted by state law. If directed by City Council, the City Attorney will research the City’s ability to impose greater age restrictions on the purchase of semi-automatic centerfire rifle by persons under the age of 21, and if such an ordinance is not preempted by state law, return with an appropriate ordinance. The proposed ordinance will contain exemptions for active-duty military and law enforcement personnel. Though law enforcement personnel was not specifically included in the Mayor’s statement, as the minimum age for appointment as a peace officer is 18, it is recommended that such an exemption be included in the proposed Ordinance. If the City Attorney determines that such an ordinance is preempted by state law, then he will return with options available to the City Council in light of that determination.

**FISCAL IMPACT**

The fiscal impact associated with the necessary research to draft the proposed ordinance will depend upon many factors. City Attorney staff time will be absorbed into the current City Attorney’s budget. If the need for outside consultants or outside counsel arises, then if these costs cannot be absorbed into the current City Attorney’s budget, then staff will return to City Council to request approval of the necessary budget modification to fund these expenses.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City’s website.

**ALTERNATIVES**

1. Direct the Office of the City Attorney to Research and Return to City Council with a

- Recommendations for Restricting the Purchase of Semi-Automatic Centerfire Rifles by Persons under 21, with Exemptions for Active-Duty Military and Law Enforcement Personnel.
2. Do Not Direct the Office of the City Attorney to Research and Return to City Council with a Recommendations for Restricting the Purchase of Semi-Automatic Centerfire Rifles by Persons under 21, with Exemptions for Active-Duty Military and Law Enforcement Personnel.

**STAFF RECOMMENDATION**

Staff makes no recommendation.

Prepared by: John A. Nagel, City Attorney