

## MEASURE C

### CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C

This proposed gun-safety measure would add four new sections to Chapter 9.44 of the Sunnyvale Municipal Code related to firearms and ammunition. These four sections relate to: (1) reporting of loss or theft of firearms, (2) safe storage of firearms within residences, (3) prohibition of large-capacity magazines, and (4) recordkeeping requirements for ammunition sales.

If the measure passes, Sunnyvale residents will be required to report the loss or theft of a firearm to the Sunnyvale Department of Public Safety within 48 hours of the time they knew or reasonably should have known of the loss or theft. This requirement will also apply to non-Sunnyvale residents whenever a firearm is lost or stolen in Sunnyvale.

The measure will require that firearms in residences be stored in a locked container or disabled with an approved trigger lock, except when a firearm is being carried by the owner or person in control of the residence, or is otherwise in that person's immediate control and possession.

The measure will prohibit the possession of large-capacity ammunition magazines in Sunnyvale, subject to certain exceptions. "Large-capacity ammunition magazines" are defined as any detachable ammunition feeding device with the capacity to accept more than ten rounds. The measure contains several exemptions including persons holding certain state gun licenses, licensed gunsmiths, law enforcement officers and other authorized government officers and employees, armored car businesses, and retired peace officers holding a valid Carry Concealed Weapons permit. In addition, the measure exempts any person who is lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large capacity magazine solely for use with that firearm.

Finally, the measure will impose certain record-keeping requirements on ammunition vendors in Sunnyvale. An ammunition vendor is defined as any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition. Ammunition vendors will be required to keep an ammunition sales log recording information related to the identity of the person purchasing the ammunition, including driver's license number or other government-issued identification, the brand, type, and quantity of ammunition purchased, and the purchaser's signature and right thumbprint. These records must be kept for 2 years and must be made available for inspection by Public Safety officers.

There is legislation currently pending in the California State Legislature which, if adopted, could preempt this measure in whole or in part. To the degree a local ordinance is preempted by State law, it is not enforceable.

If the measure is adopted by the voters, it cannot be amended except through another vote of the people.

A "YES" vote is a vote to add the above provisions to the Sunnyvale Municipal Code.

### CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C - Continued

A "NO" vote is a vote not to add the above provisions to the Sunnyvale Municipal Code.

/s/ Joan A. Borger  
City Attorney

## COMPLETE TEXT OF MEASURE C

### PROPOSED ORDINANCE TO AMEND THE CITY OF SUNNYVALE MUNICIPAL CODE ESTABLISHING GUN SAFETY REGULATIONS

The City Council of the City of Sunnyvale, on its own motion, submits to the electors the following proposed ordinance to amend the Municipal Code of the City of Sunnyvale. The City Council has called a Special Municipal Election to be held on Tuesday, November 5, 2013, for the purpose of voting on the proposed amendments.

The proposed ordinance to amend the Municipal Code of the City of Sunnyvale follows the statement of the measure; it is set out in full.

#### CITY OF SUNNYVALE MEASURE C

Shall the City of Sunnyvale adopt a gun safety ordinance to require: 1) reporting to police, within 48 hours, known loss or theft of a firearm; 2) storing firearms in residences in a locked container or disabling them with a trigger lock when not in the owner's immediate possession; 3) prohibiting the possession of ammunition magazines capable of holding more than 10 rounds, with certain exceptions; and 4) logging and tracking of ammunition sales within the City of Sunnyvale?

Yes \_\_\_\_\_

No \_\_\_\_\_

If Measure C carries, an ordinance amending the Municipal Code of the City of Sunnyvale shall be adopted, adding new Sections 9.44.030, 9.44.040, 9.44.050, 9.44.060 to Chapter 9.44, entitled "Firearms," which reads as follows:

#### AN ORDINANCE AMENDING CHAPTER 9.44 (FIREARMS) OF THE SUNNYVALE MUNICIPAL CODE TO ADD GUN SAFETY MEASURES

WHEREAS, the People of the City of Sunnyvale find that the violence and harm caused by and resulting from both the intentional and accidental misuse of guns constitutes a clear and present danger to the populace, and find that sensible gun safety measures provide some relief from that danger and are of benefit to the entire community; and

WHEREAS, the People of the City of Sunnyvale find that laws that provide for safe storage of guns in homes, that require a gun owner to report a stolen or lost gun, that prohibit the possession of ammunition magazines capable of holding more than ten rounds unless circumstances warrant such possession, and that require record-keeping relating to the sale of ammunition constitute sensible gun safety regulations because they are not unduly burdensome for gun owners, they aid law enforcement officers in their duties, and they offer some protection to all members of the community.

NOW THEREFORE, THE PEOPLE OF THE CITY OF SUNNYVALE DO ORDAIN AS FOLLOWS:

SECTION 1. SMC§§9.44.030, 9.44.040, 9.44.050, 9.44.060. ADDED.

Sunnyvale Municipal Code Title IX (Public Peace, Safety or Welfare), Chapter 9.44 (Firearms), is amended to add four new Sections to read as follows:

## COMPLETE TEXT OF MEASURE C - Continued

### 9.44.030. Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Sunnyvale Department of Public Safety within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the City of Sunnyvale; or (2) the theft or loss of the firearm occurs in the City of Sunnyvale.

### 9.44.040. Safe storage of firearms.

Except when carried on his or her person, or in his or her immediate control and possession, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence owned or controlled by that person unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice's list of approved firearms safety devices.

### 9.44.050. Possession of large-capacity ammunition magazines prohibited.

(a) No person may possess a large-capacity magazine in the City of Sunnyvale whether assembled or disassembled. For purposes of this section, "large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or
- (2) A .22 caliber tubular ammunition feeding device; or
- (3) A tubular magazine that is contained in a lever-action firearm.

(b) Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:

- (1) Remove the large-capacity magazine from the City of Sunnyvale; or
- (2) Surrender the large-capacity magazine to the Sunnyvale Department of Public Safety for destruction; or
- (3) Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 12020.

(c) This section shall not apply to the following:

- (1) Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
- (2) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
- (3) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;

## COMPLETE TEXT OF MEASURE C - Continued

(4) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;

(5) Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large capacity magazine is in accordance with that license or permit;

(6) A licensed gunsmith for purposes of maintenance, repair or modification of the large capacity magazine;

(7) Any person who finds a large capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;

(8) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large capacity magazine solely for use with that firearm.

(9) Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to the California Penal Code.

### 9.44.060. Ammunition Sales.

(a) It is unlawful for any person to engage in the business of selling, leasing, or otherwise transferring firearm ammunition within the City of Sunnyvale except in compliance with this code.

(b) Definitions:

(1) "Ammunition" means any cartridge or encasement containing a bullet or projectile, propellant, or explosive charge, and a primer which is used in the operation of a firearm.

(2) "Ammunition vendor" means any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition.

(3) "Person" means a natural person, association, partnership, firm, corporation, or other entity.

(c) Every ammunition vendor shall maintain an ammunition sales log which records all ammunition sales made by the vendor. The transferee shall provide, and the ammunition vendor shall record on the ammunition sales log, at the time of sale, all of the following information for each sale of firearms ammunition:

(1) The name, address, and date of birth of the transferee;

(2) The date of the sale;

(3) The transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;

(4) The brand, type, and quantity of firearms ammunition transferred;

(5) The identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;

(6) The transferee's signature and right thumbprint.

## COMPLETE TEXT OF MEASURE C - Continued

(d) The ammunition sales log shall be recorded on a form approved by the Director of Public Safety. All ammunition sales logs shall be kept at the location of the firearms ammunition sale for a period of not less than two years from the date of the sale. Ammunition sales logs shall be open to reasonable inspection by peace officers at all times the ammunition vendor is regularly open for business.

(e) No person shall knowingly provide false, inaccurate, or incomplete information to an ammunition vendor for the purpose of purchasing firearms ammunition. No ammunition vendor shall knowingly make a false, inaccurate, or incomplete entry in any ammunition sales log, nor shall any ammunition vendor refuse any reasonable inspection of an ammunition sales log subject to inspection.

## SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Sunnyvale hereby declare that they would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

## ARGUMENT IN FAVOR OF MEASURE C

Many of us in Sunnyvale are concerned about the risks to our families from stolen, improperly secured, or large-capacity weapons in private hands. Multiple levels of government have been slow to act on these concerns. Accordingly, Sunnyvale Citizens for Sensible Gun Measures ([www.SV4SGM.org](http://www.SV4SGM.org)) was formed to do whatever was possible at the local level to increase our safety. This Measure includes four regulations that have been successfully implemented in other cities.

### 1. Report Firearm Loss or Theft within 48 Hours

This requirement attacks gun trafficking by alerting law enforcement to missing weapons, while helping gun owners recover their missing property.

### 2. Lock Up Firearms

Easy access to guns in the home kills children and increases suicides. This measure requires firearms in the home to be disabled with a safety device or in a locked container if not in the owner's immediate possession.

### 3. Prohibit Possession of Large-Capacity Magazines

California already prohibits the manufacture, sale and purchase of ammunition magazines holding more than ten rounds, due to their role in many mass shootings. This ordinance prohibits their possession as well. It allows 90 days for disposal by sale or donation.

### 4. Log Ammunition Sales

Whoever sells ammunition in Sunnyvale must keep and maintain records of sales, which Public Safety may view upon request. Persons prohibited from having guns will either be deterred from purchasing ammunition, or their illegal gun use will be detected.

We cannot solve the gun violence problem by ourselves. But we can all make our city safer and prevent gun-related tragedies in Sunnyvale without compromising anyone's individual rights.

We urge you to vote YES on Measure C.

/s/ Anthony Spitaleri  
Mayor of Sunnyvale

/s/ Jim Davis  
Councilmember/Retired Public Safety Officer

/s/ Carol L. Weiss  
Co-founder - Sunnyvale Citizens for Sensible Gun Measures

/s/ Donald P. Veith, Jr.  
Co-chair, Santa Clara Co., Brady Campaign to Prevent Gun Violence

/s/ Kulvinder S. Gill  
Small Business Owner

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE C

As explained by Councilmember Davis, "I don't believe that any of the issues that are covered by the ballot measure ... are going to solve gun violence problems, because that's not where the source of the violence comes from." We agree.

The one certainty is that these ordinances will generate lawsuits against the city, costing enormous amounts of money — money that could be better used for hiring more police and firefighters, improve city infrastructure, add social programs, and other similar uses that could actually make Sunnyvale a better place to live.

None of these ordinances would have stopped Sandy Hook, or any of the other multiple-person shootings. To stop those requires education and outreach, family support programs, and improved reporting of troubled people — all notably absent here.

Should this ballot measure pass, the city is stuck with it. It cannot be modified without returning to the voters for approval, which means that City Council cannot change these ordinances for any reason, even if they have terrible results. Returning to the voters is expensive and time consuming, which is why it is the Council, and not the voters, who should consider these ordinances.

Responsible people already behave in the ways demanded here. Irresponsible people are simply going to ignore these ordinances for which no effective enforcement is possible. Tell City Council to stop wasting time and money on futile, hasty efforts such as this. Please vote NO on measure C.

For more details see:

<http://SunnyvaleCitizensForABetterCommunity.org>

/s/ Steven M. Sarette  
Sunnyvale Resident

/s/ Daniel Walsh  
Sunnyvale Business Owner

/s/ Brad Seifers  
Sunnyvale Resident

### ARGUMENT AGAINST MEASURE C

Proponents of this costly ballot measure have repeatedly said they want to "feel safe." We respectfully suggest the city should advance ordinances that actually MAKE people safe.

The cost for this ballot measure is already large: \$43,000. There are also unknown costs to administer these ordinances, costs the city hasn't even attempted to estimate. The liability is even greater. Lawsuits challenging these ordinances are guaranteed, each of which can approach \$1,000,000 to fight. Yet, the city can't afford to fully staff Public Safety, even as we struggle with an epidemic of residential burglaries that would absolutely be helped by putting more police officers on the street.

Sunnyvale has one of the lowest violent crime rates for a city of its size. There is no urgent problem which requires an emergency action such as this ballot measure. Even if there were problems like that in Sunnyvale, this measure would not solve those problems. Councilmember Davis even admitted as much in one City Council meeting. Despite that, the City Council chose to advance this measure. And they did this even though when given the opportunity earlier this year, City Council refused to pass these exact laws.

This is a futile measure. State gun control laws preempt city-level laws. The ordinances proposed here duplicate current state laws and legislative actions, making this a wasted effort and a major distraction from more immediate issues.

This complex issue deserves more space. For more detailed arguments, please see:

<http://SunnyvaleCitizensForABetterCommunity.org>

Tell City Council to stop wasting our time and money by voting NO on this measure.

/s/ Steve M. Sarette  
Sunnyvale Resident

/s/ Daniel Walsh  
Sunnyvale Business Owner

/s/ Brad Seifers  
Sunnyvale Resident

### REBUTTAL TO ARGUMENT AGAINST MEASURE C

Newtown, Connecticut had a low crime rate. So did Santa Monica. So did Sunnyvale, but that didn't stop Richard Farley from fatally shooting 7 and wounding 4 more here at ESL in 1988.

We do have an urgent public safety problem. There are many guns out there, even in Sunnyvale. We must act to prevent another mass shooting, suicides, injuries, and accidental deaths.

The opposition's argument makes statements that just aren't true. The truth is:

- Existing state law does not preempt or duplicate this measure.
- City Council voted 6-1 to let you decide on this measure.
- Councilmember Davis never said this measure wouldn't work. He voted to put it on the ballot and signed the argument for it.
- This measure will work. Large-capacity gun magazine bans have been shown to reduce their availability and use. Studies show that safe storage measures significantly reduce youth suicide and other firearm deaths among children. Since Sacramento required ammunition sales logs, Sacramento police have seized hundreds of guns from felons, gang members, and sex offenders.

The opponents threaten "unknown costs." This measure will give our police tools to fight crime at little cost to our city. The opponents bluster about lawsuits against Sunnyvale. No city has successfully been sued over these regulations.

We can make Sunnyvale safer for all our families. Vote YES on Measure C on November 5.

/s/ Otto O. Lee  
Former Sunnyvale Mayor

/s/ Karen Pandula  
Member of Moms Demand Action

/s/ Genavieve Heywood  
Pastor, Congregational Community Church, UCC

/s/ Margaret Okuzumi  
Member, Sunnyvale Citizens for Sensible Gun Measures

/s/ Benjamin H. Picard  
Sunnyvale Educator