

Agenda Report

June 20, 2022

TO: Honorable Mayor and City Council

FROM: Police Department

THROUGH: Public Safety Committee (June 15, 2022)

SUBJECT: REQUEST PREPARATION OF AN ORDINANCE AMENDING CHAPTER 9.84 OF THE PASADENA MUNICIPAL CODE, MAKING IT A CRIME TO POSSESS CERTAIN UNREGISTERED AND UNSERIALIZED FIREARMS KNOWN AS "GHOST GUNS" AND GHOST GUN KITS AND ENHANCE THE PENALTY FOR SUCH POSSESSION

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and Sections 15060(c)(2), 15060(c)(3), and 15378 of the State CEQA Guidelines and, as such, no environmental document pursuant to CEQA is required for the project; and
2. Direct the City Attorney to draft and return with an ordinance within 60 days making it a crime to possess firearms known as ghost guns and ghost gun kits.

BACKGROUND:

The proposed ordinance would close a loophole in federal and state law to make unlawful the possession of narrowly defined "ghost guns" and "ghost gun kits."

A ghost gun is a homemade gun made from easy-to-get, unregulated ghost gun kits. A ghost gun kit is the receiver portion of a firearm, missing only a few small holes for pins and minor machining. A receiver provides the housing for the firing mechanism. The templates for drilling the holes and the machining are readily available, as are the commonly available drill bits and tools.

The loophole in federal and state law is that the kit itself is not regulated. Once pieces of the kit are drilled and machined, it becomes a receiver and should be regulated. However, the person who assembled the kit will likely fail to register the fully functional firearm.

The rise of ghost guns is the fastest-growing gun safety problem facing our country. More than 14% of the firearms seized by the Pasadena Police Department have been unserialized, untraceable ghost guns in the last year. The number is trending closer to 16% for the current year. Disturbingly little is known about who sells ghost guns, who buys them, and how much they are used in crime.

These do-it-yourself firearms are made from parts available without a background check. They are predictably emerging as a weapon of choice for violent criminals, gun traffickers, dangerous extremists, and, generally, people legally prohibited from buying firearms. Since it has no serial number, a ghost gun cannot be traced back to where it came from, which frustrates police investigations and robs victims and survivors of justice.

Law enforcement officers are recovering increasing numbers of homemade, unserialized guns from people who are legally prohibited from having guns. It is easier and cheaper than ever for anyone to make guns. With a do-it-yourself kit ordered online and some commonly available tools, a novice can make their pistol, like a Glock 19, or an assault-style rifle, like an AR-15 or AK-47, in just a few hours. The number of ghost gun sellers offering gun-making kits with all parts needed at discount prices is exploding.

The prevalence of ghost guns and their potential to wreak havoc on gun laws are the predictable failures to regulate unfinished frames and receivers, the building blocks for ghost guns. In the absence of action addressing this threat, stakeholders across the country, state, county, and city must search for a solution. One solution is making laws that criminalize such behavior.

Unregulated sellers will continue to offer ghost gun building kits, traffickers will continue to make and sell completed untraceable ghost guns, and more of these guns will end up in the hands of prohibited and often dangerous individuals. That is causing more deaths, injuries, and trauma to our communities, including our city.

Federal and state laws do not regulate ghost gun kits, but they do not explicitly hold that they are legal. Therefore, we believe that localities are not preempted from making them illegal as long as the prohibitions are properly and narrowly written.

Staff proposes the Council enhance the penalty for such violations to one year in the county or city jail and a \$1,000 fine. Currently, the punishment under PMC 9.84.030 is only six months in county jail with a \$500 fine.

COUNCIL POLICY CONSIDERATION:

The proposed Municipal Code amendments would help to promote quality of life and ensure public safety for the City of Pasadena.

ENVIRONMENTAL ANALYSIS:

The drafting and adoption of an ordinance to make it a crime to possess ghost guns and ghost gun kits is an administrative action (i.e., general policy making) that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Therefore, the proposed action is not a "project" subject to CEQA, as defined in Section 21065 of CEQA and Section 15378 of the State CEQA Guidelines. Since the action is not a project subject to CEQA, no environmental document is required.

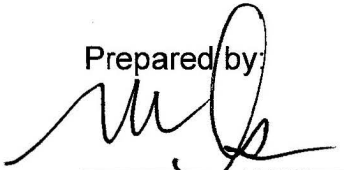
FISCAL IMPACT:

As a result of this proposed ordinance, it is anticipated there will be no fiscal impact to the City of Pasadena.

Respectfully submitted,


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 FOR
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CYNTHIA J. KURTZ
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