

ORDINANCE NO. 97-077

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF DEC 16 1997

AN ORDINANCE ADDING CHAPTER 48.02 TO TITLE 48 OF THE SACRAMENTO CITY CODE, RELATING TO THE SALE OF "SATURDAY NIGHT SPECIALS," ALSO KNOWN AS "JUNK GUNS"

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

SECTION 1.

Findings.

- (a) The City Council desires to reduce handgun-related crimes; eliminate the self-inflicted injuries and fatalities caused by the use of poor quality firearms which fail to meet minimum safety requirements; and make the City's neighborhoods and businesses as safe as possible.
- (b) The Federal Gun Control Act of 1968 prohibits the importation of poorly made handguns, but does not ban their manufacture and sale in the United States.
- (c) "Saturday Night Specials," as defined in this chapter, are dangerous products due to their low quality of manufacture and metallurgy. Many of these handguns lack minimum safety features designed to prevent unintended shootings.
- (d) As a result of their inferior craftsmanship, "Saturday Night Specials" are not suitably accurate or reliable to be useful for sport or hunting purposes. Although "Saturday Night Specials" are marketed by manufacturers as a reliable means of personal protection, objective expert evaluations suggest that they are not well suited for this purpose.

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- (e) Due to the low quality of manufacture, "Saturday Night Specials" malfunction, jam, misfire, backfire and accidentally fire with some degree of regularity and have caused serious injuries to law-abiding gun purchasers.
- (f) "Saturday Night Specials" present law enforcement problems in tracing and identifying such weapons when used for criminal activity. These guns are manufactured from soft, inexpensive metal and serial numbers are easily erased by filing or melting.
- (g) "Saturday Night Specials" are among other things, small and light, making them easy to conceal, which presents a threat to the public welfare and law enforcement officers. They pose a greater risk to society than other guns and offer fewer benefits.
- (h) According to the Bureau of Alcohol, Tobacco and Firearms, eight (8) of the ten (10) firearms most frequently traced nationally to crime scenes in 1995 were "Saturday Night Specials."
- (i) According to the University of California, Davis Violence Prevention Research Program, "Saturday Night Specials" are 3.4 times more likely to be involved in crimes than are other firearms.
- (j) In 1993, gunshot fatalities and care of gunshot victims in California cost \$703 million.
- (k) The low price, ready availability and ease with which "Saturday Night Specials" can be concealed make them particularly appealing to youth. Half of the guns confiscated in 1995 by Sacramento city police were from people under 24.
- (l) Currently in California more deaths occur as a result of shootings than from auto accidents. Shootings are the leading killer of people under 24 in California.
- (m) In 1995, 1,855 guns were seized by the Sacramento Police Department. Forty-six percent (46%) of the guns confiscated by city police classified as "Saturday Night Specials."
- (n) In recent years, firearm manufacturers have made minimal modifications to those handguns commonly known as "Saturday Night Specials," including adding carbon steel breechface inserts; using solid steel barrel tubes; increasing the greater number of steel linings incorporated in soft casings; and inserting cast stainless steel for

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revolver frames. These modifications have resulted in no advancement, or only marginal advancement, in the durability of the "Saturday Night Specials." These particular firearms continue to be dangerous products due to their low quality of manufacture and metallurgy, so as to make them unacceptable in commerce.

- (o) Manufacturers of "Saturday Night Specials" have increased the ballistic power of many of the semi-automatic pistols by chambering them to fire high pressure ammunition, yet they have not changed the materials used in the firing chamber, slide or breechface so as to contain the peak pressures generated by such ballistic power and to prevent parts breakage from overstress which can result in injury to the user.
- (p) The Legislature has not, expressly or impliedly, preempted the areas of firearm sales. The City Council therefore finds that the regulation of the sale of "Saturday Night Specials" is within the scope of the municipal police power of the City of Sacramento and this Ordinance is designed to protect the health, safety and general welfare of the community.

SECTION 2

Chapter 48.02 is hereby added to Title 48 of the Sacramento City Code to read as follows:

48.02 Regulating Sale of "Saturday Night Specials."

48.02.100 Purpose and Intent.

The purpose of this chapter is to ensure the health, safety, and general welfare of City of Sacramento citizens by eliminating the sale of cheaply made, inadequately designed and poorly manufactured handguns in the City of Sacramento. It is not the purpose of this chapter to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of sport, personal protection or any other lawful activity.

48.02.101 "Saturday Night Special" defined; exclusions.

(a) Definition.

Except as provided in Section 48.02.101(b) herein, the term "Saturday Night Special," as used in this chapter shall mean any of the following:

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- (1) A pistol, revolver, or firearm capable of being concealed upon the person, as those terms are defined in the California Penal Code Section 12001(a), which contains a frame, barrel, breechblock, cylinder or slide that is not completely fabricated of heat treated carbon steel, forged alloy or other material of equal or higher tensile strength.
- (2) A semi-automatic pistol which:
 - a) is not originally equipped by the manufacturer with a locked-breech action; and
 - b) is chambered for cartridges developing maximum permissible breech pressures above 24,100 Copper Units of Pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute.

For purpose of this subsection (a)(2), "semi-automatic pistol" shall mean a firearm, as defined in California Penal Code Section 12001(b), which is designed to be held and fired with one hand, and which does the following upon discharge: (i) fires the cartridge in the chamber; (ii) ejects the fired cartridge case; and (iii) loads a cartridge from the magazine into the chamber. "Semi-automatic pistol" shall not include assault weapons designated in California Penal Code Section 12276.

- (3) A pistol, revolver, or firearm capable of being concealed upon the person, as those terms are defined in California Penal Code Section 12001(a) which:
 - a) uses an action mechanism which is substantially identical in design to any action mechanism manufactured in or before 1898 that was originally chambered for rimfire ammunition developing maximum safe permissible breech pressures below 19,000 Copper Units of Pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute; and
 - b) is chambered to fire either centerfire ammunition or rimfire ammunition developing maximum permissible breech pressures above 19,000 Copper Units of Pressure as standardized by the Sporting Arms and Ammunition Manufacturers Institute; and

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- c) is not originally equipped by the manufacturer with a nondetachable trigger guard; or
- d) if rimfire, is equipped with a barrel of less than 20 bore diameters in overall length protruding from the frame.

For purposes of this subsection (a)(3), "action mechanism" shall mean the mechanism of a firearm by which it is loaded, locked, fired and unloaded commonly known as the cycle of operation.

(b) Exclusions.

The term "Saturday Night Special" does not include any of the following:

- (1) Any pistol which is an antique or relief firearm or other weapon falling within the specifications of paragraphs (5), (7) and (8) of subsection (b) of California Penal Code Section 12020; or
- (2) Any pistol for which the propelling force is classified as pneumatic, that is, of, or related, to compressed air or any other gases not directly produced by combustion; or
- (3) Children's pop guns or toys; or
- (4) An "unconventional pistol" as defined in California Penal Code Section 12020(c)(12); or
- (5) Any pistol which has been modified to either: render it permanently inoperable, or permanently modified to make it a device no longer classified as a "Saturday Night Special."

48.02.102 Roster of "Saturday Night Specials."

The Chief of Police or his/her designee shall compile, publish, and thereafter maintain a Roster of "Saturday Night Specials." The Roster shall list those firearms, by manufacturer and model number, which the Chief of Police or his/her designee determines fit the definition of "Saturday Night Special" as set forth in this chapter.

(a) Publication of Roster.

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The Chief of Police or his/her designee shall place on the Roster those firearms which have been determined to constitute a "Saturday Night Special" within the meaning of section 48.02.101. The Chief of Police or his/her designee shall cause the Roster to be published in the following manner:

- (1) Notification of the Roster's completion shall be published at least once within fifteen (15) days after its completion, in a newspaper of general circulation in the City, pursuant to sections 6040 and 6061 of the Government Code; and
- (2) A copy of the Roster, certified as a true and correct copy thereof, shall be filed in the office of the City Clerk of the City of Sacramento; and
- (3) A copy of the Roster, certified as a true and correct copy thereof, shall be distributed to every dealer within the City who is licensed to sell and transfer firearms pursuant to Section 12071 of the Penal Code of the State of California and Chapter 28.05 of this Code.

(b) Effective date of Roster.

The Roster shall become effective on the fifteenth day after its publication, pursuant to subsection (a)(1) of this section.

(c) Notification of Initial Roster.

Upon completion of the initial list of firearms to be placed on the Roster, the Police Chief or his/her designee shall send written notification to the manufacturers of every firearm on said list, and to every dealer within the City who is licensed to sell and transfer firearms pursuant to Section 12071 of the Penal Code of the State of California and Chapter 28.05 of this Code. Such notification shall do the following:

- (1) Identify the model number of the firearm which has been classified as a "Saturday Night Special" within the meaning of section 48.02.101; and
- (2) Advise the recipient that the recipient may apply for reconsideration of the classification of the firearm as a "Saturday Night Special;" and
- (3) Advise the recipient that the burden of proving a firearm does not constitute a "Saturday Night Special" within the meaning of section 48.02.101 shall be on the recipient.

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(d) Reconsideration of Roster Classification.

- (1) The Chief of Police, or his/her designee, shall, prior to publishing the Roster, establish standards and procedures for the form, content and filing of an application, conducting an administrative hearing and evaluating evidentiary testimony relating to the decision of the Chief of Police or his/her designee to classify the firearm in question as a "Saturday Night Special," and establish reasonable administrative fees in order to cover any costs associated with such procedures.
- (2) Upon timely filing of one or more complete applications for reconsideration, the Chief of Police or his/her designee shall evaluate the evidence submitted by the applicant(s) in accordance with the standards and procedures required under subsection (d)(1) of this section. The applicant(s) shall have the burden of proving that the firearm does not constitute a "Saturday Night Special."

(e) Appeal of Reconsideration.

- (1) If the Chief of Police or his/her designee determines that the firearm under reconsideration has been properly classified as a "Saturday Night Special," then the applicant(s) shall have the right to appeal such decision to the City Manager. The applicant(s) shall have the right to a hearing before the City Manager or his/her designee prior to inclusion of the firearm in question on the Roster, provided that the applicant(s) shall have timely filed a properly completed appeal application.
- (2) The City Manager, or his/her designee, is authorized to set administrative fees, establish standards and procedures for the form, content and filing of an appeal, conducting an administrative hearing, and evaluating evidentiary testimony relating to the decision of the Chief of Police or his/her designee to classify the firearm in question as a "Saturday Night Special."
- (3) The burden shall be on the appellant(s) to prove that the firearm does not constitute a "Saturday Night Special."
- (4) All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues and to be represented by counsel.

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- (5) The City Manager or his/her designee shall hear and consider all relevant evidence. Upon the conclusion of the hearing, the City Manager or his/her designee shall, based on the evidence presented, determine whether the firearm constitutes a "Saturday Night Special."
- (6) In all instances, the decision of the City Manager or his/her designee whether to classify the firearm in question as a "Saturday Night Special" and to place said firearm on the Roster is final.

(f) Additions to the Roster.

Additions to the Roster shall be made in accordance with the following:

- (1) **Semi-Annual Determination.** On a semi-annual basis, the Chief of Police or his/her designee shall determine whether there is a need to place additional firearms on the Roster. Upon identifying one or more firearms as a "Saturday Night Special," the Chief of Police or his/her designee shall prepare a draft list of the additions to the Roster.
- (2) **Notification of Proposed Additions to Roster.** In the event that a draft list of firearms to be added to the Roster is prepared, the Chief of Police or his/her designee shall send written notification in accordance with the provisions of subsection (c) of this section.
- (3) **Reconsideration of Proposed Additions.** Any person who the Chief of Police or his/her designee notifies pursuant to subsection (f)(2) of this section may apply for reconsideration of the classification of that firearm as a "Saturday Night Special" in accordance with the provisions of subsection (d) of this section.
- (4) **Appeal of Reconsideration.** Whenever a firearm has been determined by the Chief of Polices or his/her designee to be properly classified as a "Saturday Night Special" after reconsideration, the applicant may file an appeal to the City Manager or his/her designee shall hold a hearing in accrdance with the provisions of subsection (e) of this section.
- (5) **Addition of Firearms to Roster.** After all appeals have been exhausted, the Chief of Police or his/her designee shall place on the Roster those additional firearms which have been determined to constitute a "Saturday Night Special." The Chief of Police or his/her designee shall cause the

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Roster, as amended to include these additional firearms, to be published in accordance with subsection (a) of this section.

- (6) **Effective Date of Addition to Roster.** The addition of new firearms to the Roster shall not operate to preclude the enforcement of the Roster with respect to firearms previously listed thereon. The publication of the Roster, as amended to include new firearms, shall be effective as to those newly added firearms on the fifteenth day after its publication as set forth in subsection (a) of this section.

48.02.103 Sale of "Saturday Night Specials" Prohibited.

It shall be unlawful for any wholesale or retail firearms dealer, as licensed by the City of Sacramento, to sell, offer or display for sale, give, lend or transfer ownership of, any firearm listed on the Roster of "Saturday Night Specials."

48.02.104 Exemptions.

Nothing in this chapter shall prohibit the disposition of any firearm by sheriffs, constables, marshals, police officers, or other duly appointed peace officers in the performance of their official duties, nor to persons who are authorized by the United States Federal Government for use in the performance of their official duties; nor shall anything in this chapter prohibit the use of any firearm by the above mentioned persons in the performance of their official duties.

48.02.105 Violation and Penalty.

- (a) **Criminal sanctions.**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punishable by a fine of not more than one thousand dollars or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be punishable accordingly.

- (b) **Suspension and/or revocation of Firearms Dealer Permit.**

Any person found to be in violation of this chapter shall be considered in noncompliance with the requirements of the Sacramento City Code Chapter 28.05, and subject to the suspension

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and/or revocation of the person's Sacramento City Firearms Dealer Permit.

(c) Administrative penalties.

Any person violating any provisions of this chapter shall be subject to administrative penalties pursuant to sections 1.01.070(c) and 1.01.070(d) of the this Code.

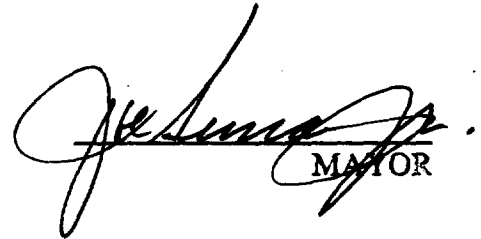
48.02.106 Severability and Validity.

This chapter shall be enforced to the full extent of the authority of the City of Sacramento. If any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the City of Sacramento, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this chapter, and the applications thereof; and to that end the section, subsection, paragraphs, sentences and words of this chapter shall be deemed severable.

DATE PASSED FOR PUBLICATION: December 2, 1997

DATE ENACTED: December 16, 1997

DATE EFFECTIVE: January 15, 1997


MAYOR

ATTEST:


CITY CLERK

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