

Note: The below code has not been codified into the Oakland Ordinances as of 4/27/16.
Ordinance No. 13352

The City Council of The City of Oakland Does Ordain as Follows:

Section 1. The following Chapter is added to the Oakland Municipal Code

Chapter Possession of Large-Capacity Magazines Prohibited

A. Title. This chapter shall be known as Oakland's Ban on Possession of Large-Capacity Magazines Act.

B. Findings and Purpose. The City Council finds as follows:

1. This law is intended to reduce gun violence and make the City safer.
2. The ability of large-capacity magazines to hold numerous rounds of ammunition significantly increases the lethal capacity of automatic and semiautomatic firearms equipped with these magazines.
3. Large-capacity magazine bans reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity magazine.
4. Large-capacity magazines are not necessary for individuals to vindicate their right to self-defense. Only in an extraordinarily rare circumstance would a person using a firearm in self-defense ever be required to use a large-capacity magazine to defend himself or herself effectively. This is particularly true in an urban center like Oakland where law enforcement can and does respond quickly to threats and incidents. Conversely, the dangers of large-capacity magazines are heightened in dense urban areas like Oakland.
5. It has been reported that from 2011 to 2012, roughly ten percent of all handguns seized by the Oakland Police Department had large-capacity magazines.
6. It has also been reported that large-capacity magazines are difficult to trace to their point of origin because ammunition magazines for public sale are not stamped with serial numbers. 7. In 2015 alone, the Oakland Police Department reported that 101 criminal cases were charged where a large capacity magazine was recovered.
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C. Definitions.

"Large-capacity magazine" means any detachable ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

- a. A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
- b. A .22 caliber tube ammunition feeding device;
- c. A tubular magazine that is contained in a lever-action firearm.

D. Possession of Large-Capacity Magazines Prohibited.

1. It is unlawful for any person to possess any large-capacity magazine, except as otherwise authorized by law, whether assembled or disassembled.
2. Any person who, prior to the effective date of this article, was legally in possession of a large-capacity magazine shall have 90 days from such effective date to do any of the following without being subject to prosecution:

- a. Remove the large-capacity magazine from the City of Oakland;
- b. Surrender the large-capacity magazine to the Oakland Police Department for destruction;
- c. Sell or transfer the large-capacity magazine lawfully in accordance with Section 32410 of the California Penal Code.

E. Exemptions.

The provisions of Subsection D. shall not apply to the following:

1. 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 scope of his or her duties.
2. A person licensed pursuant to Sections 26700 to 26915 of the California Penal Code;
3. A gunsmith for the purpose of maintenance, repair or modification of the large-capacity magazine;
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, corporation, or other entity that manufactures a large capacity magazine for a person specified in subdivision 1., or for an expert pursuant to applicable federal regulations.
6. Any person using the large-capacity magazine solely as a prop for a motion picture, television or video production, so long as it does not contain any live ammunition;
7. Any holder of a special weapons permit issued pursuant to California Penal Code Sections 18900, 31000, 32650, 32700-32720, or 33300;
8. Any person issued a permit pursuant to California Penal Code Section 32315 by the Department of Justice upon a showing of good cause for the possession, transportation or sale of large-capacity magazines between a person licensed pursuant to Sections 26700 to 26915 of the California Penal Code, and an out-of-state client, when those activities are in accordance with the terms and conditions of the permit;
9. Any federal, state or local historical society, museum or institutional collection which is open to the public, provided that the large-capacity magazine is properly housed, secured from unauthorized handling and unloaded;
10. 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 necessary to deliver or transport the same to a law;
11. A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities;
12. Any person in the business of selling or transferring large-capacity magazines in accordance with California Penal Code Section 32310 who is in possession of a large-capacity magazine solely for the purpose of doing so; or
13. Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000 if no magazine that holds 10 or less rounds of ammunition is compatible with that firearm;

F. Penalty.

A violation of this section shall be subject to enforcement through criminal prosecution and/or civil penalties, as provided herein.

1. Violation a Misdemeanor A person who violates this Chapter shall be guilty of a misdemeanor punishable by imprisonment in the County Jail not exceeding six months or by fine not exceeding one thousand dollars (\$1,000), or by both. Each violation shall be deemed a distinct and separate offense.

2. Civil Penalties The City may assess civil penalties pursuant to Oakland Municipal Code Chapter 1.08 (Civil Penalties) in the amount of one thousand dollars (\$1,000 per violation).

G. Remedies not exclusive. Remedies under this Chapter are cumulative and not exclusive. They are in addition to and do not supersede or limit other administrative, civil, and/or criminal remedies provided under state or federal law, or other provisions of the Oakland Municipal Code. The City may seek an order for the award of attorney's fees.

H. Amendments to State laws adopted herein. In the event that any California statute adopted or referred to in this Chapter is amended or succeeded by another enactment of the California Legislature, such amendments shall be deemed automatically adopted as part of this chapter as if fully set forth herein unless the City Council amends this Chapter to provide otherwise.

Section 2. Severability and Validity.

If any provision of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions. The City Council declares that it would have adopted the remaining provisions irrespective of the provisions, sections, sentences, clauses, or words declared invalid or unconstitutional.

Section 3. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall be effective upon the seventh day after final adoption.