

ORDINANCE NO.
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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**AN ORDINANCE ADDING CHAPTER 3.61 TO TITLE 3 OF THE SAN MATEO
COUNTY ORDINANCE CODE TO PROHIBIT THE USE, POSSESSION, SALE, OR
OFFER FOR SALE OF FLAMETHROWERS**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. A new Chapter 3.61 is hereby added to Title 3 of the San Mateo County Ordinance Code to be numbered and entitled and to read in its entirety as follows:

**CHAPTER 3.61 USE, POSSESSION, TRANSFER, OFFER FOR SALE AND SALE OF
FLAMETHROWERS PROHIBITED**

3.61.010-Application of Chapter.

The provisions of this Chapter shall apply within the unincorporated area of San Mateo County.

3.61.020-Flamethrower Defined.

For the purposes of this Chapter, “flamethrower” means any nonstationary and transportable device designed or intended to emit, or capable of emitting or propelling, fire or a burning stream of combustible or flammable liquid a distance of twenty-two (22) inches or greater.

3.61.030-Possession and Use of Flamethrowers Prohibited.

No person shall possess or use any flamethrower.

3.61.040-Sale, Transfer, or Distribution of Flamethrowers Prohibited.

The sale, offer or display for sale, trade, transfer, or other distribution by any person or retailer of flamethrowers is prohibited and no person or retailer shall sell, offer or display for sale, trade, transfer, or distribute, any flamethrower.

3.61.050-Exceptions.

(a) This Chapter shall not apply to the possession, transportation, storage, or use of a flamethrower by a person if all of the following apply:

- (1) The person is regularly employed by, or a paid officer, employee, or member of, a fire department, fire protection district, or firefighting agency of the federal government, the

state, a city, a county, a city and county, district, public or municipal corporation, or other political subdivision of the state of California.

(2) The person is on duty and acting within the course and scope of his or her employment.

(3) The flamethrower is used by the fire department, fire protection district, or firefighting agency described in subdivision (a) in the course of fire suppression or fire suppression training.

(b) This Chapter shall not apply to prohibit the storage on private property only of a flamethrower by a person who is an active permitholder pursuant to Division 11, Part 3, § 12750, et, seq. of the California Health and Safety Code, or successor statute.

3.61.060-Violation of this Chapter is a Public Nuisance.

Violation of this Chapter is a public nuisance subject to any and all applicable civil, administrative and criminal remedies and penalties according to the provisions and procedures contained in this ordinance code and state law including, but not limited to, an abatement action for seizure and destruction of the flamethrower.

3.61.070-Enforcement.

(a) The San Mateo County Sheriff or designee, or any code enforcement officer appointed by the County, may enforce this Chapter.

(b) A violation of this Chapter is an infraction, punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200) for the second violation within one year;

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one year.

(c) This section shall not be interpreted to limit the applicable civil or administrative remedies available under law.

3.61.080-No Conflict with Federal or State Law.

Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.

3.61.090-Severability.

If any provision, section, subsection, sentence, clause, phrase, or word of this Chapter 3.61, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the chapter. The Board of Supervisors hereby declares that it would

have passed this chapter, and each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional.

SECTION 3. This Ordinance shall be in effect thirty (30) days after adoption.

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