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FIREARM SALES STUDY

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Firearm Sales Study

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Executive Summary

On April 20, 2023, the New Orleans City Council passed Motion M-23-163 directing the City Planning Commission, in conjunction with the City Attorney's Office, to conduct a study and make recommendations regarding the addition of Firearm Sales as a use separate and distinct from Retail Goods Establishment in the City's Comprehensive Zoning Ordinance (CZO). Such recommendations could include regulations that prohibit the sale of firearms within 1,000 feet of Education Facilities.

The Motion granted the City Planning Commission and its staff the flexibility to make all appropriate changes relative to this request to ensure consistency and continuity with the format of the Comprehensive Zoning Ordinance, to add references wherever references are customary, needed, and/or appropriate, to make appropriate adjustments to clarify any ambiguities or mistakes, and to make adjustments deemed necessary, in light of public testimony resulting from this study and review.

A similar study is underway in Jefferson Parish, Louisiana. On April 12, 2023, the Jefferson Parish Council adopted Resolution No. 141684, creating an interim zoning district "with the intent of evaluating and amending regulations related to firearm related commercial establishments and 'firearm-free zones'; establishing interim development standards during the study[.]"¹ This Firearm Sales Study similarly reviews the potential to use local land use policies to control the sale of firearms within the City's Comprehensive Zoning Ordinance.

Study Goals

The goal of the Firearm Sales Study is to explore amending current firearm sales related regulations while considering any federal and state legal parameters, to determine whether Firearm Sales may be established as a distinct separate use from general Retail Sales within Article 20 of the CZO and to evaluate whether the CZO may be used to prohibit the sale of firearms within 1,000 feet of Education Facilities in Orleans Parish.

Key Findings

The Louisiana Constitution authorizes local governments to regulate zoning and land use in accordance with their home rule charters.² The City of New Orleans' ("City") Charter assigns these powers to the City Planning Commission.³ The City Planning Commission's role is to establish and uphold land use regulations within the City. Although vested with these zoning and land use powers, a local government may never abridge the state's police power.⁴

This study aimed to determine whether the City could create a separate and distinct use for the sale of firearms, and to prohibit the sale of firearms within 1,000 feet of Educational Facilities. Two findings indicate that doing so would violate state law. First, Louisiana Revised Statute 40:1796 preempts the City from enacting ordinances that are more restrictive than Louisiana statutes governing the sale, purchase, possession, or ownership of firearms. Secondly, although there is a separate Louisiana Revised Statute

1 Jefferson Parish Council, Council Res. 141684 (Apr. 12, 2023).

2 See La. Const. Ann. art. VI, § 17.

3 See Home Rule Charter of the City of New Orleans, Article V, § 5-401, et al.

4 La. Const. Ann. art. VI, § 9(B).

(14:95.6) that establishes firearm-free zones and prohibits the possession of a firearm within 1,000 feet of a school campus, this provision does not apply to commercial establishments permitted by law to have firearms. Based on the above facts, it is the position of the City Attorney's Office that creating a separate use for Firearm Sales would likely be more restrictive than state law and therefore violate La. R.S. 40:1796 and abridge the State's police power. Any desired land use changes must be addressed with the state legislature before the City could enact land use reforms on this matter.

Despite these barriers, effective gun control measures remain crucial to addressing the gun violence epidemic. Through the course of this study, CPC Staff worked with partners such as the New Orleans Health Department, the Department of Safety & Permits, the New Orleans Police Department, and the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives to uncover alternate approaches to addressing gun violence. These approaches include educating the public on firearm prevalence within the community, and investing in city and community led strategies that are aimed at a holistic community approach to rapidly reduce gun violence in New Orleans.

Existing Zoning Regulations for the Sale of Firearms

Implemented in 2015, the current Comprehensive Zoning Ordinance (CZO) governs land use decisions throughout the City of New Orleans. The CZO provides permitted land uses for the City's zoning districts, as well as height limits, setback requirements, urban design standards, operational rules, among other regulations. The CZO is organized into a series of Articles that specify citywide standards, individual zoning district regulations, and the processes for variances, conditional use permits, and other land use reviews.

Firearm Sales

Definition within the CZO

The CZO does not currently provide a separate definition or use for the sale of firearms. Such an establishment would be subject to the use standards for a *Neighborhood Commercial Establishment* and *Retail Goods Establishment*. These uses are defined in **Article 26** as follows:

[...]

Neighborhood Commercial Establishment. A commercial use within a residential neighborhood that is non-residential in its original construction and use.

[...]

Retail Goods Establishment. A business that provides physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include any adult uses. A retail goods establishment may not sell alcoholic beverages unless retail sales of packaged alcoholic beverages is allowed within the district and a separate approval is obtained for such use. A retail goods establishment that sells food products, such as a delicatessen, bakery, or grocery, may offer ancillary seating areas for consumption of food on the premises.

Use Standards

The use standards for Neighborhood Commercial Establishment and Retail Goods Establishment are found in **Article 20** and listed below.

[...]

20.3.NN NEIGHBORHOOD COMMERCIAL ESTABLISHMENT

1. The existing structure is non-residential in its construction and original use.
2. The existing structure and the proposed use shall be pedestrian-oriented in design, including public entrances oriented to the street and storefront windows along the first floor.
3. Neighborhood commercial establishments are limited to the first floor of the structure and three-thousand (3,000) square feet in gross floor area.
4. The following uses are permitted within a neighborhood commercial establishment:
 - i. Art Gallery
 - ii. Arts Studio
 - iii. Child Care Center, Adult or Child
 - a. The use of a Child Care Center is exempt from the 3,000 square foot gross floor area limitation, if the existing site is able to provide the required off-street parking, per Article 22, Table 22-1 Off-Street Vehicle and Bicycle Parking Requirements, and meet the minimum square foot requirements, per Section 20.3.S.2.
 - iv. Office
 - v. Personal Services Establishment
 - vi. Restaurant, Specialty
 - vii. Retail Goods Establishment
5. The structure is limited to the existing building footprint. No increase in building footprint or intensity of use is permitted.
6. The principal entrance shall be a direct entry from the street the property abuts.
7. No off-street parking is required.
8. Drive-through facilities are prohibited.
9. Outside storage or display is prohibited. All business, servicing, processing, and storage operations shall be located within the structure.
10. Any signs are subject to the requirements of the HU-B1A District.
11. Hours of operation are limited to 6am through 10pm.

Adopted by Ord. 28432 MCS, 8-6-20, ZD 38/20

Educational Facilities

Motion M-23-163 directs the CPC to study potential zoning changes that would prohibit the sale of firearms within 1,000 feet of Educational Facilities. The definition of what constitutes an Educational Facility is below.

Definition within the CZO

Article 26 of the CZO defines Educational Facilities as follows:

Educational Facility, Primary. A public, private, or parochial school offering instruction at the elementary and/or junior high school levels. Places of worship with primary educational facilities are classified as primary educational facilities so long as both uses are located on the same lot, even if in separate buildings. An “Educational Facility, Primary” includes ancillary uses that serve

the student population, such as cafeterias and retail goods establishments. Primary educational facilities may also include child care centers.

Educational Facility, Secondary. A public, private, or parochial school offering instruction at the senior high school level. Secondary educational facilities also include secondary theological schools for training ministers, priests, or rabbis. Places of worship with secondary educational facilities are classified as secondary educational facilities so long as both uses are located on the same lot, even if in separate buildings. An “Educational Facility, Secondary” includes ancillary uses such as cafeterias and retail goods establishments. Secondary educational facilities may also include child care centers.

Educational Facility, University. A post-secondary institution for higher learning that grants associate or bachelor degrees. The institution may also have research facilities and/or professional schools that grant master and doctoral degrees. University educational facilities also include post-secondary theological schools for training ministers, priests, or rabbis. University educational facilities do not include vocational educational facilities. An “Educational Facility, University” includes ancillary uses such as cafeterias, restaurants, and retail goods establishments. University educational facilities may also include child care centers.

Educational Facility, Vocational. A school that teaches industrial, clerical, computer, managerial, automotive, repair (electrical, plumbing, carpentry, etc.), commercial, or artistic skills, or a school conducted as a commercial enterprise, such as a driving school or school for general educational development (GED). This definition applies to privately operated schools that do not offer a complete educational curriculum. Vocational educational facilities do not include university educational facilities. An “Educational Facility, Vocational” includes ancillary uses that serve the student population, such as cafeterias, restaurants, and retail goods establishments. Vocational educational facilities may also include child care centers.

Use Standards

Article 20 provides the subsequent use standards for Educational Facilities:

20.3.2 EDUCATIONAL FACILITY (PRIMARY, SECONDARY, AND VOCATIONAL)

A Campus Development Plan shall be submitted to the City Planning Commission for review and approval prior to the issuance of building permits for new building construction, in accordance with Article 4, Section 4.12. The plan shall address the general layout of the entire campus and shall include the following:

1. *Site Plan.* A campus site plan including the location, square footage, and building heights of all existing and proposed structures and all existing and proposed uses.
2. *Traffic Plan.* A traffic plan shall include the following components: circulation routes for school bus, motor vehicle, bicycle and pedestrian transportation modes; ingress and egress locations for each transportation mode; curb side usage; locations and capacity of all off-street parking and loading spaces; for primary and secondary educational facilities, student pick-up and drop-off locations shall also be shown along with a plan for staff supervision and traffic control during peak hours; and an inventory of school zone signage, pedestrian beacons, crosswalk striping and ADA compliance.

Use Permissions for Retail Goods Establishments, Neighborhood Commercial Establishments, and Educational Facilities in the Comprehensive Zoning Ordinance.

Firearm sales currently fall under the Retail Goods Establishment use. Neighborhood Commercial Establishment's use permissions are also included below as they allow a variety of commercial uses, including Retail Goods Establishments. Retail Goods Establishments and Neighborhood Commercial Establishments are not permitted in the following districts: OS-N Neighborhood Open Space District, OS-G Greenway Open Space District, OS-R Regional Open Space District, NA Natural Areas District, OS-CBD Central Business Open Space District, OS-AR Armstrong Regional Park District, R-RE Rural Residential Estate District, VCR-1 Vieux Carre Residential District, VCR-2 Vieux Carre Residential District, VCP Vieux Carre Park District, S-RS Single-Family Residential District, S-RD Two-Family Residential District, S-RM1 Multi-Family Residential District, S-RM2 Multi-Family Residential District, S-LRS1 Lakeview Single-Family Residential District, S-LRS2 Lake Vista and Lake Shore Single-Family Residential District, S-LRS3 Lakewood and Country Club Gardens Single-Family Residential District, S-RLD1 Lake Vista Two-Family Residential District, S-LRD2 Lakewood/Parkview Two-Family Residential District, S-RM1 Lake Area Low-Rise Multi-Family Residential District, S-LRM2 Lake Area High-Rise Multi-Family Residential District, and S-LP Lake Area Neighborhood Park District.

Retail Goods Establishments or Neighborhood Commercial Establishments are entirely restricted from operating in any Suburban Neighborhood Residential Districts, which can be found in **Article 13 – Suburban Neighborhoods Residential Districts** (S-RS, S-RD, S-RM1, S-RM2, S-LRS1, S-LRS2, S-RLD1, S-RLD2, S-LRM1, S-LRM2, S-LP). These areas were developed in the latter half of the 20th Century and are characterized by lower density development, including neighborhoods of single-family development on lots of various sizes and more spacious setbacks between homes. There are limited commercial uses in the Suburban Neighborhood Residential Districts; the only commercial uses permitted in these districts are Day Care Centers or Child Care Centers as conditional or permitted uses depending on the zoning district. However, as is indicated below in the analysis of the location of firearm dealers throughout the City, there are five firearm dealers in New Orleans that operate in these zoning districts as home-based businesses, which is allowed by-right.

Educational Facilities are widely allowed across the City. The districts that do not allow any type of educational zoning district primarily are open space districts or part of the French Quarter commercial strips. Districts that do not permit Educational Facilities include: OS-N Neighborhood Open Space District, OS-G Greenway Open Space District, OS-R Regional Open Space District, NA Natural Areas District, OS-CBD Central Business Open Space District, OS-AR Armstrong Regional Park District, VCE Vieux Carre Entertainment District, VCE-1 Vieux Carre Entertainment District, VCP Vieux Carre Park District, HU-B1A Neighborhood Business District, S-LP Lake Area Neighborhood Park District, S-LM Lake Area Marina District, and the MS Medical Service District.

The use tables provided below establish whether Educational Facilities, Retail Goods Establishments and Neighborhood Commercial Establishment are permitted ("P"), conditional ("C"), or prohibited uses (blank space) in a specific zoning district.

Article 7 – Open Space District

7.2 Uses

Table 7-1: Permitted and Conditional Uses								
Uses	District							Use Standards
	OS-N	OS-G	OS-R	NA	GPD	OS-CBD	OS-AR	
COMMERCIAL USE								
[...]								
Retail Goods Establishment					C ⁵			
[...]								
INSTITUTIONAL USE								
Educational Facility, Primary					C ⁶			Section 20.3.Z
Educational Facility, Secondary					C ⁶			Section 20.3.Z
Educational Facility, Vocational					C ⁵			Section 20.3.Z
Educational Facility, University					C ⁵			
[...]								

⁵ Subject to the use restrictions in Section 7.2.B.1.

⁶ Subject to the use restrictions in Section 7.2.B.2.

[...]

Article 8 – Rural Development Districts

8.2 Uses

Table 8-1: Permitted and Conditional Uses			
Uses	Districts		Use Standards
	R-RE	M-MU	
COMMERCIAL USE			
[...]			
Retail Goods Establishment		P	

[...]			
INSTITUTIONAL USE			
[...]			
Educational Facilities	P	P	
[...]			

[...]

Article 9 – Historic Core Neighborhoods Residential Districts

9.2 Uses

Table 9-1: Permitted and Conditional Uses						
Use	District					Use Standards
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3	
COMMERCIAL USES						
[...]						
Neighborhood Commercial Establishment			C	C	C	Section 20.3.NN
[...]						
INSTITUTIONAL USE						
[...]						
Educational Facility, Primary	P	P	P	P	P	Section 20.3.Z
Educational Facility, Secondary	P	P	P	P	P	Section 20.3.Z
[...]						

[...]

Article 10 – Historic Core Neighborhoods Non-Residential Districts

10.2 Uses

Table 10-1: Permitted and Conditional Uses											
Uses	District										Use Standards
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU	
COMMERCIAL USE											
[...]											
Retail Goods Establishment	P	P	P	P	P	P		P	P	P	
[...]											
INSTITUTIONAL USE											
[...]											
Educational Facility, Vocational		P			P	P		P	P	P	Section 20.3.Z
Educational Facility, Primary	P	P			P	P		P	P	P	Section 20.3.Z
Educational Facility, Secondary	P	P			P	P		P	P	P	Section 20.3.Z
[...]											

[...]

Article 11 – Historic Urban Neighborhood Residential Districts

11.2 Uses

Table 11-1: Permitted and Conditional Uses						
Uses	Districts					Use Standards
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2	
COMMERCIAL USE						
[...]						

Neighborhood Commercial Establishment	C	C	C	C	C	Section 20.3.NN
			[...]			
INSTITUTIONAL USE						
[...]						
Educational Facility, Primary	C	C	C	C	C	Section 20.3.Z
Educational Facility, Secondary	C	C	C	C	C	Section 20.3.Z
[...]						

[...]

Article 12 – Historic Urban Neighborhoods Non-Residential Districts

12.2 Uses

Table 12-1: Permitted and Conditional Uses				
Uses	Districts			Use Standards
	HU-B1A	HU-B1	HU-MU	
COMMERCIAL USE				
[...]				
Retail Goods Establishment	P	P	P	
[...]				
INSTITUTIONAL USE				
[...]				
Educational Facility, Primary		P	P	Section 20.3.Z
Educational Facility, Secondary		P	P	Section 20.3.Z
Educational Facility, Vocational		P	P	Section 20.3.Z
[...]				

[...]

Article 13 – Suburban Neighborhoods Residential Districts

13.2 Uses

Table 13-1: Permitted and Conditional Uses					
Uses	Districts				Use Standards
	S-RS	S-RD	S-RM1	S-RM2	
INSTITUTIONAL USE					
[...]					
Educational Facility, Primary	C	C	C	C	Section 20.3.Z
Educational Facility, Secondary	C	C	C	C	Section 20.3.Z
[...]					

Table 13-1: Permitted and Conditional Uses								
Uses	Districts							Use Standards
	S-LRS1	S-LRS2	S-LRS3	S-LRD1	S-LRD2	S-LRM1	S-LRM2	
INSTITUTIONAL USE								
[...]								
Educational Facility, Primary	C	C	C	C	C	C	C	Section 20.3.Z
Educational Facility, Secondary	C	C	C	C	C	C	C	Section 20.3.Z
Educational Facility, Vocational	C					C	C	Section 20.3.Z
[...]								

[...]

Article 14 – Suburban Neighborhoods Non-Residential Districts

14.2 Uses

Table 14-1: Permitted and Conditional Uses									
Uses	Districts								Use Standards
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-MU	S-LP	S-LM	
COMMERCIAL USE									
[...]									
Retail Goods Establishment	P	P	P	P	P	P		P	
[...]									
INSTITUTIONAL USE									
[...]									
Educational Facility, Primary			C	C	C	C			Section 20.3.Z
Educational Facility, Secondary			C	C	C	C			Section 20.3.Z
Educational Facility, University					C	C			
Educational Facility, Vocational	C	C		C	C	C			Section 20.3.Z
[...]									

[...]

Article 15 – Commercial Center & Institutional Campus Districts

15.2 Uses

Table 15-1: Permitted and Conditional Uses										
Uses	Districts									Use Standards
	C-1	C-2	C-3	MU-1	MU-2	EC3	MC	MS	LS	
COMMERCIAL USE										
[...]										
Retail Goods Establishment	P	P	P	P	P	P	P	P	P	
[...]										
INSTITUTIONAL USE										
[...]										
Educational Facility, Primary	P	P	P	P	P	P				Section 20.3.Z
Educational Facility, Secondary	P	P	P	P	P	P				Section 20.3.Z
Educational Facility, University	C	C	C	P	P	P	P		C	
Educational Facility, Vocational	C	P	P	P	P	P			C	Section 20.3.Z
[...]										

[...]

Article 16 – Centers for Industry

16.2 Uses

Table 16-1: Permitted and Conditional Uses					
Uses	Districts				Use Standards
	LI	HI	MI	BIP	
COMMERCIAL USE					
[...]					
Retail Goods Establishment	P	P	P	P	
[...]					
INSTIUTIONAL USE					
[...]					
Educational Facility, Vocational	C	C	P	C	Section 20.3.Z
Educational Facility, University	C	C	P	C	
[...]					

[...]

Article 17 – Central Business Districts

17.3 Uses

Table 17-1: Permitted and Conditional Uses								
Uses	Districts							Use Standards
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7	
COMMERCIAL USE								
[...]								
Retail Goods Establishment	P	P	P	P	C	P	P	
[...]								
INSTIUTIONAL USE								

[...]								
Educational Facility, Primary	P	P	P		P	P	P	Section 20.3.Z
Educational Facility, Secondary	P	P	P		P	P	P	Section 20.3.Z
Educational Facility, University	P	P	P	P	P	P	P	
Educational Facility, Vocational	P	P	P	P	P	P	P	Section 20.3.Z
[...]								

Firearm Sale Regulations

Federal

The United States Constitution established the organizational principles of the U.S. federal system of government, through the separation of powers, checks and balances of the governmental branches, and the guarantees of individual liberty. The Constitution is comprised of a preamble, seven articles, and 27 amendments. The first 10 amendments are known as the Bill of Rights and include, among other things, the Second Amendment. The Second Amendment establishes an individual's right to keep and bear arms.

The Second Amendment is a fiercely contested issue, as represented by the numerous cases involving the scope of the Second Amendment. In 2008, the Supreme Court heard such a case – *District of Columbia v. Heller*. In *Heller*, the Supreme Court held that the District of Columbia's firearm regulations were unconstitutional.⁵ The District implemented regulations governing the types of firearms individuals could buy and own, and where they could possess them; several residents challenged the constitutionality of these regulations.⁶

In its opinion, the Court stated that the Second Amendment's textual elements together "guarantee the individual right to possess and carry weapons in case of confrontation".⁷ Furthermore, the Court noted that the Second Amendment was "widely understood" to have codified a pre-existing individual right to keep and bear arms.⁸

Even more notable to this Study, the Court clarified the following:

⁵ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

⁶ *Id.*

⁷ *Id.* at 2797.

⁸ *Id.*

[a]lthough we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.⁹

This statement indicates that certain laws involving the sale of firearms may be permissible on a state level. To determine whether such regulations are lawful, Louisiana statutes are subsequently considered.

State Law

Louisiana law currently preempts local governments from enacting ordinances or regulations that are more restrictive than La. R.S. 40:1796. In other words, local law may not further restrict the sale, purchase, possession, and ownership of firearms. The state statute is as follows:

Preemption of State Law (La. R.S. 40:1796)

- A. No governing authority of a political subdivision shall enact after July 15, 1985, any ordinance or regulation more restrictive than state law concerning in any way the sale, purchase, possession, ownership, transfer, transportation, license, or registration of firearms, ammunition, or components of firearms or ammunition; however, this Section shall not apply to the levy and collection of sales and use taxes, license fees and taxes and permit fees, nor shall it affect the authority of political subdivisions to prohibit the possession of a weapon or firearm in the commercial establishments and public buildings enumerated in R.S. 40:1379.3(N).
- B. Nothing in this Section shall prohibit a local governing authority in a high-risk area from developing a plan with federally licensed firearms manufacturers, dealers, or importers to secure the inventory of firearms and ammunition of those licensees in order to prevent looting of the licensee's premises during a declared state of emergency or disaster. Such plan shall be renewed on a periodic basis. The information contained in the plan shall be deemed security procedures as defined in R.S. 44:3.1 and shall be released only to the sheriffs of the parishes or police chiefs of municipalities in which the declared state of emergency or disaster exists.
- C. For the purposes of this Section:
 - 1. "Declared emergency or disaster" means an emergency or disaster declared by the governor or parish president pursuant to the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act.
 - 2. "High-risk area" means the parishes of Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion.

⁹ *Id.* at 2816-17.

Added by Acts 1985, No. 741, §1, eff. July 17, 1985; Acts 2006, No. 254, §1; Acts 2020, No. 299, §1.

This statute prevents the City of New Orleans from enacting laws stricter than those provided by the state and therefore would preclude the City from creating a separate use for Firearm Sales in the Comprehensive Zoning Ordinance, in order to prohibit the sale of firearms within 1,000 feet of Education Facilities. Since creating a separate use is not feasible, other state laws are explored for alternative approaches.

Louisiana's Firearm-Free Zone (La. R.S. 14:95.6)

Louisiana's Firearm Free Zone statute (La. R.S. 14:95.6) prohibits the possession of a firearm within a certain proximity of school campuses with a few exceptions. La. R.S. 14:95.6 provides that:

- A. A "firearm-free zone" is an area inclusive of any school campus and within one thousand feet of any such school campus, and within a school bus, wherein the possession of firearms is prohibited, except as specifically set forth in Subsection B of this Section and R.S. 14:95.2(C).
- B. The provisions of this Section shall not apply to:
 - (1) A federal, state, or local law enforcement building.
 - (2) A military base.
 - (3) A commercial establishment which is permitted by law to have firearms or armed security.
 - (4) Private premises where a firearm is kept pursuant to law.
 - (5) Any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle.
- C. For purposes of this Section:
 - (1) "School" means any public or private elementary, secondary, high school, or vocational-technical school, college, or university in this state.
 - (2) "School campus" means all facilities and property within the boundary of the school property.
 - (3) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.
- D. The local governing authority which has jurisdiction over zoning matters in which each firearm-free zone is located shall publish a map clearly indicating the boundaries of each firearm-free zone in accordance with the specifications in Subsection A. The firearm-free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the firearm-free zone is located.
- E. (1) The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark firearm-free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school

bus indicating that such area is a firearm-free zone and that such zone extends to one thousand feet from the boundary of school property. The state Department of Education shall assist each approved school with the posting of notice as required in this Subsection.

(2) Signs or other markings, in addition to the method developed pursuant to Paragraph (1) of this Subsection, shall provide notice that armed law enforcement officers are permitted within the firearm-free zone by including in the signs or other markings the language "Law Enforcement Weapons Permitted" or language substantially similar thereto.

F. (1) It is unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a firearm-free zone as provided in this Section.

(2) Whoever violates the provisions of this Subsection shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Acts 1992, No. 197, §1; Acts 1993, No. 844, §1; Acts 1993, No. 1031, §1; Acts 2016, No. 337, §1.

As stated in La. R.S. 14:95.6, a Firearm-Free Zone encompasses a school campus and the area within one thousand feet of that campus. However, La. R.S. 14:95.6(B) provides several exceptions, including commercial establishments which are permitted by law to have firearms and any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle. Therefore, a commercial establishment which sells firearms within a Firearm-Free Zone is likely permissible if the establishment is permitted by law to have firearms.

[Municipal Code](#)

Although the City of New Orleans does not require a specific business license for the sale of firearms, the city code of law contains several notable regulations for the sale and purchase of firearms:

Sec. 54-347. - Requirement for firearms sale or transfer.

No dealer shall sell or transfer any firearm or destructive device unless the purchaser meets the following requirements:

- (1) Has not been convicted of a felony offense;
- (2) Is not a fugitive;
- (3) Has not been convicted within five years prior to the date of application for the purchase or transfer of such firearm or destructive device in any jurisdiction of any law restricting the use, possession, or sale of any narcotic or dangerous drug.

(Code 1956, § 42-64)

Sec. 54-348. - Procedure for sale of firearm or destructive devices.

- (a) No dealer shall sell any firearm or destructive device until the federal firearms transaction record shall have been executed in duplicate by the prospective purchaser. For handgun or destructive device sales, upon execution in duplicate of the federal firearms transaction record by the prospective purchaser and presentation of valid photographic identification, the dealer

shall contact by telephone the superintendent of police or his designated agent. The dealer shall supply the above authority with the necessary information for such authority to make a computer check, nationally, of such purchaser's criminal record or fugitive status, if any. In the absence of information that such purchaser does not meet the requirements of section 54-347, the above authority will furnish the dealer with an authorization number, unique for each transfer or sale; the dealer shall note such authorization number in his records and on the federal firearms transfer record, and may, not less than seven days after contacting the superintendent of police or his designated agent as required herein, deliver such handgun or destructive device to the purchaser or transferee.

- (b) For rifles or shotguns, the dealer may deliver such rifle or shotgun to the purchaser after completion of federal firearms transfer record in duplicate and presentation of valid photographic identification. Within 24 hours of the delivery of any firearm or destructive device by dealer to purchaser, the dealer shall forward to the superintendent of police or his agent one copy of the federal firearms transfer record, noted with authorization number for guns.
- (c) The dealer shall keep a permanent daily record of all firearm transactions regulated by this division which records shall be subject to the inspection of the superintendent of police or his agent.
- (d) Anyone who possesses a federal firearm permit to buy and/or sell firearms shall obtain a current occupational license from the bureau of revenue, department of finance. All monies derived from the sale of firearms shall be reported to the bureau of revenue.

(Code 1956, § 42-64.1)

Sec. 54-350. - Information required for sale of firearms or destructive devices.

- (a) Within 24 hours of the sale of any firearm, the seller shall supply the superintendent of police with the following information:
 - (1) Applicant's name, address, occupation, place and date of birth, height, weight, race, any visible marks and the signature of the applicant;
 - (2) Acknowledgment by the applicant that he:
 - a. Has never been convicted of a crime of violence in the state, or any other state, territory, or the District of Columbia or in the United States;
 - b. Is not under indictment for or charged by information with any crime of violence;
 - c. Is not a fugitive from justice;
 - d. Is not an unlawful user of or addicted to narcotics, or dangerous drugs;
 - e. Is at least 18 years of age;
 - (3) The date the completed form was delivered to the prospective seller by the prospective purchaser;
 - (4) A description of the firearm including the type of firearm, make, model and serial numbers, and letters and caliber or gauge;
 - (5) If the dealer shall furnish the superintendent of police or his agent with a copy of the federal firearm transaction record within 24 hours this shall satisfy the preceding information requirements as listed in subsections (1) through (4) of this subsection;
 - (6) Anyone who possesses a federal firearm permit to buy and/or sell firearms shall obtain a current occupational license from the bureau of revenue, department of finance.

- (b) Every organization applying for a registration certificate or firearm permit shall also comply with the provisions of this section. Every organization shall provide such other information as the chief determines is necessary to carry out the provisions of this division.

(Code 1956, § 42-65)

Sec. 54-351. - Unlawful to sell, transfer firearms or destructive devices to certain persons.

It shall be unlawful for any person or dealer to sell or transfer a firearm or destructive device to any person who he knows or has reasonable cause to believe:

- (1) Has been convicted of a felony;
- (2) Is a fugitive from justice;
- (3) Is an unlawful user of or addicted to narcotics, or dangerous drugs;
- (4) Is visibly under the influence of alcohol or drugs;
- (5) Is under 18 years of age; except with the consent of parent or guardian.

(Code 1956, § 42-66)

Sec. 54-352. - Unlawful to make false statements.

It is unlawful to knowingly give any false information or to make any material misstatement in a federal firearms transaction record.

(Code 1956, § 42-67)

Sec. 54-353. - Appeals.

Any individual or organization which believes it has been wrongly or unfairly denied the right to purchase a firearm or destructive device, in furtherance of the enforcement of this chapter may appeal such denial directly to the superintendent of police. Should the superintendent uphold the denial, the individual or organization shall appeal such decision to the court of proper jurisdiction.

(Code 1956, § 42-67.1)

Sec. 54-354. - Penalties.

Any person who knowingly gives any false information or makes any material misstatement in a federal firearms transaction record as required by this division, or any person or dealer who fails to forward such record to the superintendent of police within 24 hours, or who sells or transfers a firearm to a person other than the one by whom the record was completed, or who otherwise sells, transfers, purchases, receives or transfers a firearm in violation of this division, shall be subject to imprisonment of not more than 90 days, or a fine of not more than \$100.00, or both.

(Code 1956, § 42-68)

Sec. 54-355. - Sale, transfer of firearms; exemptions.

- (a) The provisions of sections 54-346 through 54-354 shall not be construed to include any antique or unserviceable firearm sold or transferred and/or held as a curio or museum piece.
- (b) For the purposes of sections 54-346 through 54-354, a dealer shall be exempt from application thereof, only when purchasing firearms for resale, and not as an isolated transaction.
- (c) A purchase by a pawnbroker shall include an acquisition growing out of a pledge or pawn and shall not be exempt from the regulatory provisions of this division.

Licensing Requirements

Federal

Unlike other states that have tighter gun control regulations, Louisiana does not require a specific license to sell firearms within the state; however, the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) does. To become a firearms dealer, one must first register their business with Louisiana’s Secretary of State and with their local jurisdiction. Once registered, an interested party may proceed with the ATF’s federal firearm license process. The application, along with a summary of the permitting process, may be found on the ATF’s website.¹⁰ Once an application is received, the Federal Firearms Licensing Center (“FFLC”) records the application information and reviews the form for correctness. The FFLC conducts a background check on the “responsible persons” and the license application is sent to the local ATF field office. At the local field office, an Industry Operations Investigator (“IOI”) will conduct an in-person interview with the applicant, prepare a report, and issue a recommendation (i.e., issuance or denial of the application) to their area supervisor. Next, the IOI contacts the local zoning authority to determine whether the applicant’s registered business location conflicts with local zoning regulations. For instance, if the applicant holds a home-business license to sell firearms online solely, their location must be the residence of the applicant.

If the applicant’s business is deemed acceptable at the State and local level, the area supervisor reviews the report and submits the recommendation to the FFLC. The FFLC will then issue the license, assuming all background checks have been completed and the business is compliant with state and local laws. As stated on the ATF’s website, “FFLs are issued to eligible people in accordance with the Gun Control Act of 1968 and must be renewed every three years. This general information is presented as a starting point only and does not cover all situations and requirements.”¹¹ This entire process takes approximately 60 days.

Types of Federal Firearm Licenses (FFLs)

Federal Firearm Licenses are organized into categories of dealers, manufacturers, importers, and collectors. There are sub-types of licenses within those categories, which are explained on the ATF’s website and in Appendix A.¹² Currently in New Orleans, there are only Type 01, Type 02, and Type 03 registered firearm dealers (See **Figure 1** and **Table 1** for the list and map of FFL dealers in New Orleans).

The Type 01 registered FFL is a dealer in firearms other than destructive devices, which includes gunsmiths. The application fee for this license is \$200 with \$90 renewal fee every three years. The Type 01 license allows a dealer to sell firearms at wholesale or retail, repair firearms or make/fit special barrels, stocks, or trigger mechanisms to firearms and to occasionally import firearms.

10 How to Become a Federal Firearms Licensee in 10 Easy Steps, the Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/resource-center/how-become-federal-firearms-licensee-10-easy-steps> (last visited November 10, 2023).

11 *Federal Firearms Licenses*, the Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/federal-firearms-licenses> (last visited November 10, 2023).

12 *Id.*

The Type 02 also falls into the dealer license category and is for a pawnbroker in firearms other than destructive devices. The application fee is \$200, with \$90 renewal fee every three years. The Type 02 license allows a dealer to take or receive, by way of pledge or pawn, firearms as security for the payment or repayment of money. A Type 02 FFL dealer may also occasionally import firearms.

A Type 03 FFL dealer falls within the collector category and is for any person who acquires, holds, or disposes of firearms as curios or relics. The application fee is \$30, with \$30 renewal every three years. With this license, a collector may: purchase curios and relics in any state and transport or bring those curios and relics back to their state of residence; transfer, sell, or deliver curio and relic firearms to another licensee who is a resident of any state; and transfer curio and relic firearms to another licensee at a qualifying gun show or event in a state other than the collector's state of residence. A collector's license does not authorize a collector to engage in the business of dealing in firearms, even when those firearms are curios and relics.¹³

On a related note, a person must obtain a new license if an existing firearms business is moved to a new location. The amended license ([ATF Form 5300.38](#)), must be filed not less than 30 days prior to the move. An amended license must be obtained before commencing business at the new location. Once the new license is obtained, the licensee may no longer conduct business at the former business premises.

Local

Occupational Licenses allow the City's Bureau of Revenue to collect applicable fees and sales tax. The license is tied to business activity and the taxes associated with it. The City of New Orleans does not have a separate Occupational License for the sale of firearms. Currently, any prospective business selling firearms in a retail setting (i.e., a storefront where people enter and a financial transaction takes place) is considered a retail goods establishment and the Occupational License and permitting process would be the same as other retail goods establishments. The other type of license permitting the sale of firearms could be a home-based business where the retail sales of firearms is occurring strictly over the internet (i.e., a person who does drop shipments or online sales) and no financial transactions happen through foot traffic entering the home.

An Occupational License can be applied for at the Department of Safety and Permits. The application captures the type of license/permit applied for (i.e., retail goods establishment or a home-based business), a description of the proposed business, whether the business is a new or an existing business changing its status, and general information about the business and the business owner. The applicant must also submit a notarized Business Registration Application (Schedule A) to the Bureau of Revenue. Schedule A asks the applicant to provide the number of employees, the owner, and partnership or corporation information. These questions include a description of the business' office and retail space, with the dimensions of the floor area, and disclosure of alterations or enlargements made or intended to be made to the building. The Occupational License tax is based on a sliding scale according to the business' revenue and such licenses are renewed annually.

¹³ *Curios & Relics*, the Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/curios-relics> (last visited November 10, 2023).

Certificate of Occupancy

The Certificate of Occupancy ensures that a location complies with all current zoning and building code regulations. A Certificate of Occupancy is required if an applicant is changing the use of a building or if the facility involves any work that requires a building permit. An inspection of the premises is required when a Certificate of Occupancy is issued or when the occupant of a building changes. Some minor renovations are exempt from a building permit and do not require a Certificate of Occupancy. Exemptions are found in Section 105-2 of the City's Building Code. The fee for a Certificate of Occupancy is tied to the building permit.

Analysis of Firearm Dealers' Locations in Proximity to Educational Facilities

The ATF's website lists all active FFL licenses in Louisiana by location and FFL license. Staff exported this list and mapped the locations of FFL licensed dealers throughout the City (See Figure 1). Based on this list, there are 31 licensed firearm dealers within the City's boundaries and one in Jefferson Parish near the Orleans/Jefferson Parish line. Of the New Orleans FFL licensed dealers, nine are Type 01 dealers who are permitted to sell firearms at wholesale or retail, repair firearms, and occasionally import firearms. Staff analyzed the proximity of each FFL licensee to an educational facility; the closest Type 01 dealer is located within approximately 143.2 feet.

Three of the 31 New Orleans FFLs are Type 02 dealers who are pawn brokers permitted to take or receive, by way of pledge or pawn, firearms as security for the payment or repayment of money. Type 02 FFL dealers may also occasionally import firearms. The closest Type 02 dealer is located approximately 386.3 feet from an educational facility.

Nineteen of the 31 FFLs in New Orleans are Type 03 dealers who are collectors permitted to purchase curios and relics and transport them across state lines. However, the Type 03 license does not authorize a collector to sell firearms, even when those firearms are curios and relics.¹⁴ The closest Type 03 dealer is located approximately 398.7 feet from an educational facility.

As indicated in the analysis below, some New Orleans FFL dealers are permitted to operate in residential zoning districts; five of those dealers have FFL licenses which exclude Retail Goods and Neighborhood Commercial Establishments. In these cases, one operates under a Type 01 license and four have Type 03 licenses.

¹⁴ *Curios & Relics*, the Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/curios-relics> (last visited November 10, 2023).

Figure 1. Map of Licensed Firearm Dealers and Educational Facilities in New Orleans

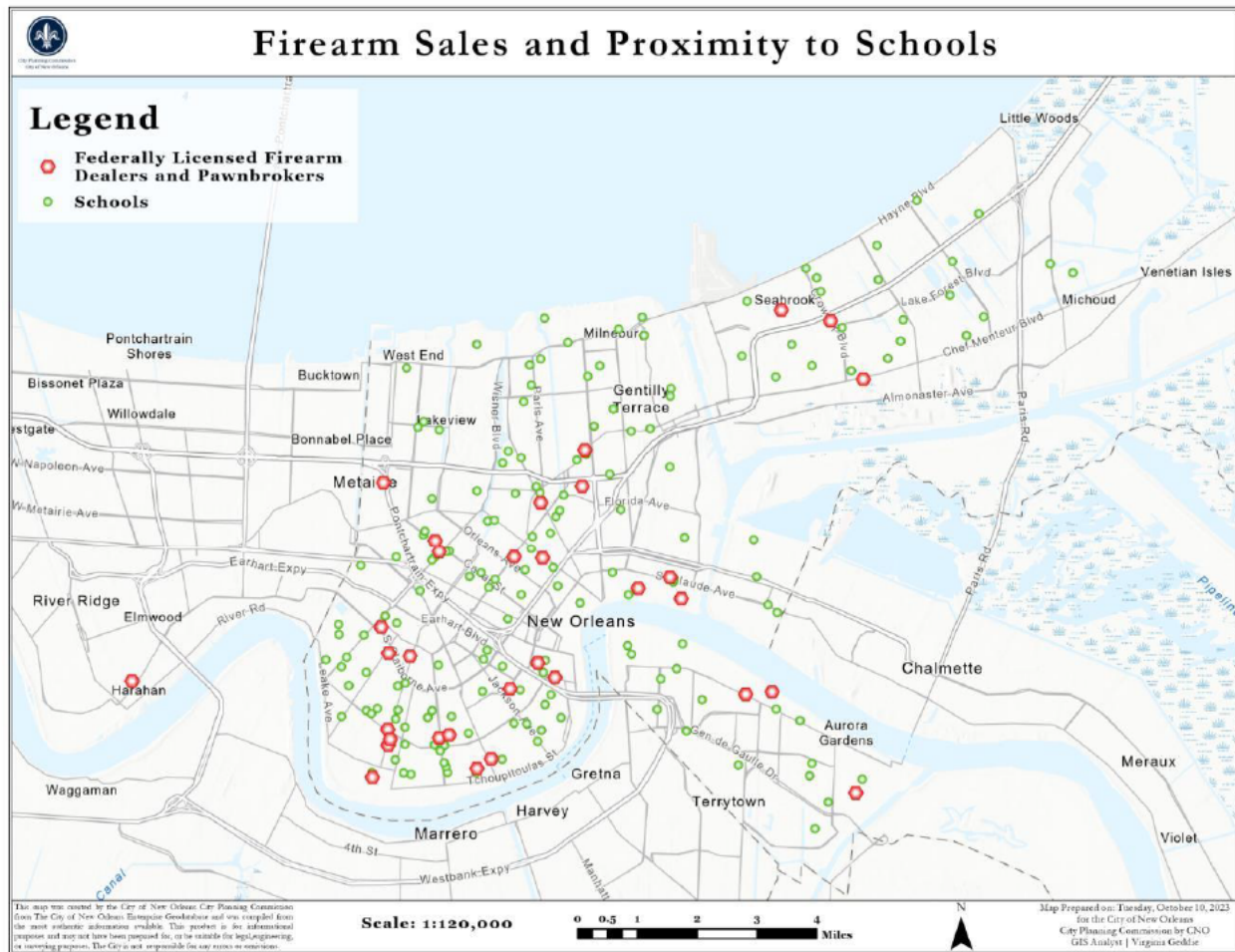


Table 1. FFL Dealers in New Orleans Proximity to Closest Educational Facility

License Holder	Type of FFL	Full Address	Zoning	Nearest School	Distance to Nearest School (in feet)	Nearest School Address
La. Const. art. I, § 5	01	[REDACTED]	HM-MU	Tech Talent South - NOLA Campus	143.198274	3014 Dauphine St.
	01		HU-RD1	Morris Jeff Community School	1272.48532	1301 N Derbigny St, New Orleans, LA 70116
	01		HU-MU	Phillis Wheatley Community School	1500.36357	2300 Dumaine St, New Orleans, LA 70119
	01		HU-MU	Christian Brothers School	1167.18717	4600 Canal St
	01		S-RS	Rosenwald Collegiate Academy	1319.6561	6501 Berkley Dr, New Orleans, LA 70131
	01		HU-MU	Benjamin Franklin Elem. Math and Science	1416.13562	1116 Jefferson Ave, New Orleans, LA 70115
	01		BIP	New Orleans Adventist Academy	1296.60203	4500 Gawain Dr
	01		HU-MU	Coastal Truck Driving School	589.563162	4016 Canal St, New Orleans, LA 70119
	01					

License Holder	Type of FFL	Full Address	Zoning	Nearest School	Distance to Nearest School (in feet)	Nearest School Address
La. Const. art. I, § 5	01	La. Const. art. I, § 5	CBD-5	International High School of New Orleans	682.481184	727 Carondelet St, New Orleans, LA 70130
	02		MU-1	Park Place Premier Barber School	386.280029	3024 Gentilly Blvd, New Orleans, LA 70122
	02		C-3	The Upperroom Bible Church Academy	1180.84273	8600 Lake Forest Blvd
	02		HU-B1	Audubon Charter School	957.293206	3128 Constance St, New Orleans, LA 70115
	03		HU-RD1	The Willow School (formerly Lusher)	2605.5994	7315 Willow St, New Orleans, LA 70118
	03		HU-RD1	The Good Shepherd Nativity Mission Elementary School	1799.99863	1839 Agriculture St
	03		HU-RD2	Academy Of The Sacred Heart	1014.63798	4301 St. Charles Ave
	03		N/A	St. Joan Of Arc School	17209.7178	919 Cambronne St
	03		HMR-3	Frederick A. Douglass High School	1610.57976	3820 St. Claude Ave, New Orleans, LA 70117
	03		HU-RD2	Morris Jeff Community School	398.724849	3819 St. Claude Ave, New Orleans, LA 70117
	03		S-LRS3	Delagado Community College	4507.47464	615 City Park Ave.
	03		HU-RD1	Lafayette Academy Charter School	1041.85265	2727 S Carrollton Ave, New Orleans, LA 70118
	03		HU-RD2	Lycee Francais de la Nouvelle-Orleans	415.723299	5951 Patton St, New Orleans, LA 70115
	03		S-RS	Edna Karr High School	2984.91245	4400 General Meyer Ave, New Orleans, LA 70131
	03		HU-RD1	Eleanor McMain Secondary School	2409.42841	5712 S Claiborne Ave, New Orleans, LA 70125
	03		HU-RM1	The NET Charter High School	905.743542	1614 Oretha Castle Haley Blvd, New Orleans, LA 70113
	03		HU-RS	The Willow School (formerly Lusher)	1148.23379	5625 Loyola Ave, New Orleans, LA 70115
	03		HU-RD2	Academy Of The Sacred Heart	759.652949	4521 St. Charles Ave
	03		HU-RD2	St. Leo the Great	876.169309	1501 Abundance St
	03		S-RS	Mildred Osborne Charter School	3130.99969	6701 Curran Blvd, New Orleans, LA 70126
	03		S-RS	Edna Karr High School	1568.99362	4400 General Meyer Ave, New Orleans, LA 70131
	03		HU-RD2	Benjamin Franklin Elem. Math and Science	384.812392	3649 Laurel St, New Orleans, LA 70115
	03		CBD-3	New Orleans Culinary & Hospitality Institute (NOCHI)	1127.30869	725 Howard Ave, New Orleans, LA 70130
	03		HU-RD2	De La Salle High School	1389.1451	5300 St. Charles Ave

Firearm Related Crime Statistics

Gun Violence Incidents

In spring 2023, the Firearm Sales Study was initiated by City Council, in response to an increase in gun violence throughout the City. According to data provided by the NOPD, there were 3,274 gun violence incidents reported in the City during 2022. Of those incidents, there were 213 homicides, a 21% increase from 2021. In general, reported gun violence incidents have risen almost 48.5% since 2018.

Table 2. NOPD Reported Gun Violence Incidents 2018-2023

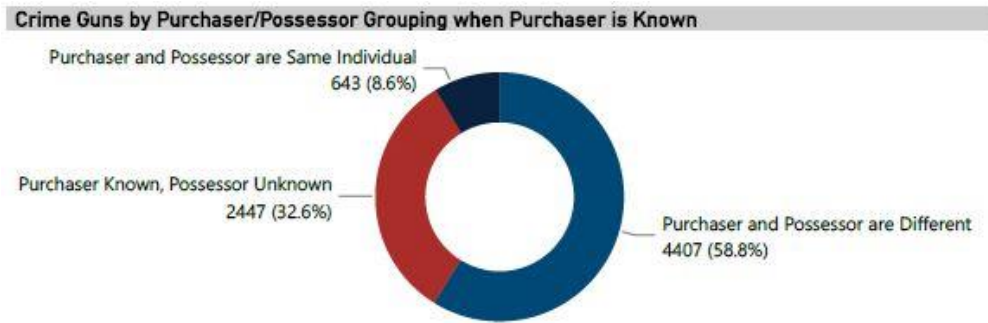
NOPD Reported Gun Violence Incidents 2018 - 2023 YTD							
Crime Type	2018	2019	2020	2021	2022	2023	Grand Total
AGGRAVATED ASSAULT	488	510	701	792	735	553	3779
AGGRAVATED BATTERY (SHOOTING)	225	255	425	500	485	338	2228
AGGRAVATED CRIMINAL DAMAGE	132	132	253	260	248	186	1211
ARMED CARJACKING	81	73	186	186	200	114	840
ARMED ROBBERY (GUN)	398	307	307	289	431	252	1984
ATTEMPTED MURDER (SHOOTING)	1	1	2	1	4	5	14
HOMICIDE (SHOOTING)	107	103	167	176	213	150	916
ILLEGAL CARRYING OF A GUN	324	307	224	273	648	573	2349
ILLEGAL USE OF WEAPONS	165	238	369	375	310	245	1702
Grand Total	1921	1926	2634	2852	3274	2416	15023

Data Provided by NOPD Field Operations Bureau, November 2023

Traced Firearms Involved in a Crime in New Orleans

From 2017-2021, the local ATF field office tracked the possession and purchase of guns involved in crimes throughout the City (See Figure 2). This data was shared with CPC staff. According to this data, the ATF traced 9,020 guns involved in a crime, and 7,497 of those guns were traced to a known purchaser (See Figure 3). The majority of recovered firearms were used by someone other than the purchaser in the commission of a crime; only 8.6% of guns recovered were used by the purchaser in the commission of a crime (See Figure 2).

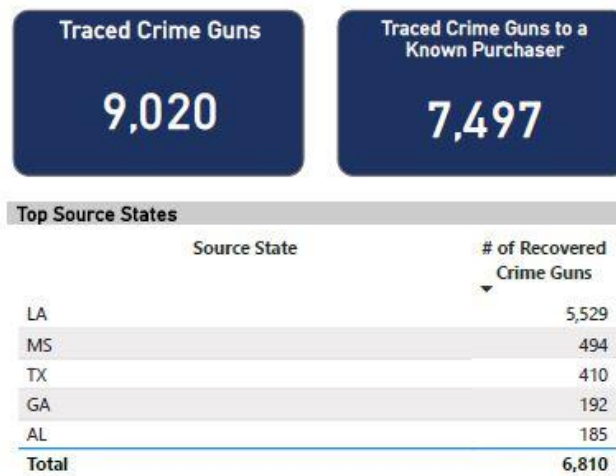
Figure 2. Crime Guns by Purchaser/Possessor Grouping 2017-2021



Data Provided by ATF New Orleans Field Office, June 2023

The ATF also tracked the cities and states where guns involved in New Orleans related crimes were originally purchased. Between 2017 and 2021, most guns traced were purchased in Louisiana. However, the top five cities were Metairie, Gretna, Harahan, Baton Rouge, and Jefferson. All of these locations are within a 1-hour drive of New Orleans.

Figure 3. Crime Guns Recovered and Traced 2017-2021



Data Provided by ATF New Orleans Field Office, June 2023

Top Source Cities

Source City	Source State	# of Recovered Crime Guns
METAIRIE	LA	1,171
GRETNNA	LA	957
HARAHAN	LA	443
BATON ROUGE	LA	346
JEFFERSON	LA	293
Total		3,210

Data Provided by ATF New Orleans Field Office, June 2023

New Orleans is undoubtedly facing a violent crime epidemic, particularly in relation to gun violence. Yet, most New Orleans crime-related guns traced by the ATF were not purchased in the city. This indicates that stricter zoning regulations regarding the sale of firearms may not significantly reduce the number of gun-related crimes within the City, as a majority of guns recovered were purchased outside city limits.

Nationwide Practices in Firearm Sales Zoning Regulations

Pursuing gun control measures through local zoning regulations has been contested throughout the nation. As a part of this study, CPC staff researched U.S. cities that use their zoning ordinances to regulate the sale of firearms. Although Louisiana preempts such regulations entirely, the following examples are from municipalities that also have a more restrictive state gun control preemption law.

Fargo, North Dakota

North Dakota has a preemption law that prevents local political subdivisions, such as Fargo, from enacting laws stricter than the state that pertain to the purchase, sale, ownership, possession, transfer of ownership, registration or licensure of firearms and ammunition.¹⁵ However, Section 62.1-01-03 of the North Dakota State Code is an exception. This Section provides:

***62.1-01-03. Limitation on authority of political subdivision regarding firearms - Civil action.*¹⁶**

* * *

3. *This section does not limit the ability of a political subdivision, including home rule cities or counties, to enforce an ordinance or zoning regulation relating to a business operation if the restriction in the ordinance or regulation:*
 - a. *Applies equally to all persons engaging in commerce within the area subject to the ordinance or regulation; and*
 - b. *Is not specifically related to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition.*

Based on these limitations, Fargo prohibits the sale of firearms as accessory uses for home occupation within its city code. The code provides:

Use Standards for Non-farm Commercial Uses:

Prohibited Uses. *Dispatch Centers, Firearms and Ammunition Sales, and Adult Establishments as defined in Section 20-0403.C.5 are prohibited uses.*¹⁷

Accessory Uses for Home Occupations Prohibited Uses:

¹⁵ ND ST 62.1-01-03.

¹⁶ *Id.*

¹⁷ Fargo Municipal Code, §20-0402 (T)(3).

Firearms and Ammunition Sales

The sale of firearms and/or ammunition, and the production of ammunition for sale or resale are prohibited as home occupations.¹⁸

North Dakota's preemption statute is less restrictive than Louisiana's, as it permits a municipality's zoning ordinance to have such a regulation. As a result, cities such as Fargo are allowed to prohibit the sale of firearms as accessory uses in home occupied businesses.

Chicago, Illinois

The State of Illinois also has a firearm preemption law. It states:

Sec. 13.1. Preemption¹⁹

- a. Except as otherwise provided in the Firearm Concealed Carry Act and subsections (b) and (c) of this Section, the provisions of any ordinance enacted by any municipality which requires registration or imposes greater restrictions or limitations on the acquisition, possession and transfer of firearms than are imposed by this Act, are not invalidated or affected by this Act.*

Like Fargo, the City of Chicago restricts the sales of firearms for home-based businesses. The Chicago Zoning Ordinance states:

Use Standards Business live/work units:

Purpose. *Business live/work units allow limited residential use in street level commercial establishments in "B" and "C" (Business and Commercial) districts. The regulations of this section are intended to ensure that the residential use satisfies basic habitability standards and that the commercial viability of the unit is maintained.²⁰*

Permitted uses. *The following commercial uses are permitted in business live/work units:*

- 1. Artist work or sales space;*
- 2. Offices;*
- 3. Personal services, except massage establishments and businesses that require a Children's Activities Facility (CAF) license from the Department of Business Affairs and Consumer Protection or any successor agency; and*
- 4. Retail sales, general, except the following: food and beverage retail sales, the sale of firearms or ammunition, and the sale of tobacco, cigars, cigarettes or cigarette papers, leaf tobacco, snuff, or any preparations containing tobacco.²¹*

¹⁸ Fargo Municipal Code, §20-0403 (C)(5)(e).

¹⁹ 430 ILCS 65/13.1.

²⁰ Chicago Zoning Ordinance and Land Use Ordinance, Ch. 17-9, §0103.1-A.

²¹ *Id.* at 0103.1-B.

It also defines a firearms dealer as follows:

17-17-0106-C Firearms Dealer. *A firearms dealer means a person issued a weapons dealer-firearms dealer license pursuant to Article VII of Chapter 4-144.*²²

Illinois' preemption statute is far less restrictive than Louisiana's, as it permits a municipality to impose greater restrictions on the acquisition, transfer, or possession of firearms. As a result, Chicago is permitted to restrict the sale of firearms in business live/work units.

Jefferson Parish, Louisiana

On April 12, 2023, the Jefferson Parish Council adopted Resolution No. 141684, implementing interim development standards to prohibit the sale of firearms within 1,000 feet of school campuses, while the Planning Department conducts a study. The interim development standards are set to expire on April 12, 2024; however, they may be extended for an additional six months.

Parish Councilmember Deano Bonano acknowledged that he would not be surprised if this zoning matter was challenged in court.²³ Jefferson Parish, like Orleans Parish (New Orleans), is subject to Louisiana's firearm preemption statute. This is presumably what would cause the ordinance to be challenged in court. Therefore, mirroring Jefferson Parish's approach would also subject the City to potential litigation.

Public Input on Firearm Sales Study

Public Input Received

On April 20, 2023, the New Orleans City Council adopted Motion M-23-163 directing the City Planning Commission, in conjunction with the City Attorney's Office, to conduct a Firearm Sales Study. The Motion passed with unanimous consent of the members present (Councilmembers Thomas, Green, Harris, Giarrusso, and King).

Public Hearing

All studies that are directed to the City Planning Commission receive a preliminary hearing. At such a hearing, the item under consideration is presented to the City Planning Commission and the public, both of whom may provide feedback. The Firearm Sales Study was scheduled to be heard at the June 13, 2023 CPC hearing. At the June 13, 2023 meeting, CPC staff postponed the Public Hearing until July 11, 2023, to garner additional public input. At the July 11, 2023 meeting, CPC staff presented the Study to the Commission. Commissioners requested confirmation that the state's preemption law prohibited the City from further restricting the sale of firearms. Staff confirmed this was the case, citing La. R.S. 40:1796.

²² *Id.* at 0106-C.

²³ Farrah Reed, Jefferson Parish Council approves zoning measure to stop new firearm shops from opening near schools, WDSU, <https://www.wdsu.com/article/jefferson-parish-council-approves-zoning-measure-to-stop-new-firearm-shops-from-opening-near-schools/43586921#> (last visited November 10, 2023).

Public Comments

At the July 11, 2023 CPC meeting, there was one public comment by Joceyln Pinkerton, the Domestic Violence & Sexual Assault Program Director for the City of New Orleans Health Department. On behalf of the Health Department, Ms. Pinkerton expressed support for the study and the need to look at firearm regulations as an injury prevention strategy to reduce gun violence and the gun-related mortality rate, especially among children in New Orleans.

The CPC received one online public comment from Meghan Mekita of Moms Demand Action New Orleans. Ms. Mekita's comment is provided in the Granicus packet of this study.

Additional Meetings

Since the adoption of Motion M-23-163, CPC Staff and the City's Attorney's Office have had several meetings to discuss the legal parameters of this study. Staff also communicated with the Department of Safety and Permits regarding permitting and zoning for licensed firearm dealers that fall under General Retail Goods Establishments or home-based businesses.

Throughout the study, CPC staff communicated with the U.S. Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives' ("ATF") local field office. ATF representatives provided detailed explanations of the approval and renewals processes for FFLs, as well as information on FFL related crimes in New Orleans from 2017-2021. CPC Staff also worked with the NOPD to obtain gun related crime data for the study.

Finally, the New Orleans Health Department Office of Gun Violence Prevention provided ample information on administration and community led efforts to prevent gun violence. The department connected CPC staff with community advocacy groups to learn more about gun control policy and issues being reviewed at the state and federal level.

Study Findings

Assessment of Impact to Create a Separate Firearm Sales Use in CZO

Master Plan Consistency Analysis

Land use actions must be consistent with, or at a minimum not interfere with, the goals, policies, and strategies of the Plan for the 21st Century: New Orleans 2030, commonly known as the Master Plan. Currently, the sale of firearms falls under the broader use of a retail goods establishment. Considered to be a less intense commercial use, retail goods establishments are permitted in most non-residential zoning districts and can be contemplated under the neighborhood commercial establishment use category via the conditional use process in many residential zoning districts. Without a distinction between the sale of firearms and a retail goods establishment, the use – as a retail good establishment - is widely permitted either by-right or through the conditional use process throughout the City.

Consequently, there are many Future Land Use Map (FLUM) designations that apply to the locations where the sale of firearms is presently permitted, including the designations catered to single-family development, the most restrictive of the FLUM designations. These designations include language allowing “neighborhood-serving commercial” uses, such as: “neighborhood-serving businesses and traditional corner stores may be allowed where current or former use is verified. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for historical institutional or other non-residential structures.”

A variation of this language referencing neighborhood-serving commercial or retail uses is found in the majority of the FLUM designation descriptions.

The Master Plan has several other Chapters that provide policy guidance to further the City’s long-term goals. Chapter 8 of the Master Plan, *Health and Human Services*, contains goals to address violence and safety in New Orleans. Goal 8.A.1 in Chapter 8 states, “[i]mplement and support evidence-based strategies and programs including CeaseFire New Orleans and Group Violence Reduction Strategy.” Creating a distinct use for the sale of firearms to restrict the location in which they may be sold is not explicitly discussed in the Master Plan. However, it can be opined that goals to implement programs such as CeaseFire, a program specifically designed to prevent gun violence, would align with the reduction of places in which to purchase a firearm.

Legal Authority to Create a Separate Use for the Sale of Firearms Analysis

The Louisiana Constitution vests local governments with the authority to govern local issues via home rule charter.²⁴ The Constitution states that:

“[a] home rule charter . . . shall provide the structure and organization, powers, and functions of the government of the local governmental subdivision, which may include the exercise of any power and performance of any function necessary, requisite, or proper for the management of its affairs, not denied by general law or inconsistent with this constitution.”²⁵

This power is reflected in the City’s Home Rule Charter (“Charter”).²⁶ The City’s Charter provides that:

“[t]he City . . . shall have the right, power, privilege and authority to adopt and enforce local police, sanitary and similar regulations and to do and perform all of the acts pertaining to its local affairs, property and government which are necessary or proper in the legitimate exercise of its corporate powers and municipal functions.”²⁷

24 See La. Const. Ann. art. VI, § 5.

25 La. Const. Ann. art. VI, § 5.

26 See Home Rule Charter of the City of New Orleans, Article II, § 2–101.

27 Home Rule Charter of the City of New Orleans, Article II, § 2–101.

The Constitution also authorizes local governments to regulate zoning and land use, pursuant to their home rule charters.²⁸ The City's Charter assigns these powers to the City Planning Commission.²⁹ Although vested with these zoning and land use powers, the local government may never abridge the state's police power.³⁰ State courts have further explained this concept. In *Varnado v. Southern University at New Orleans*, the Fourth Circuit Court of Appeal noted that home rule charter governments possess powers within their jurisdiction that "are as broad as that of state, except when limited by constitution, laws permitted by constitution, or its home rule charter."³¹ The City's Comprehensive Zoning Ordinance would be an exercise of such police powers.³² However, as stated in the landmark *Jefferson Parish v. Universal Fleeting Co.* case there is a well settled principle that:

*"[m]unicipalities may enact laws to supplement the state statutes providing they do not conflict with the provisions of the state law upon the same subject and providing the municipality was given subordinate authority by city charter to legislate."*³³

However, in Louisiana, local governments are explicitly preempted by State law from enacting stricter laws or regulations regarding firearms.³⁴ Again, Louisiana Revised Statute 40:1796 states that:

*"[n]o governing authority of a political subdivision shall enact after July 15, 1985, any ordinance or regulation more restrictive than state law concerning in any way the sale, purchase, possession, ownership, transfer, transportation, license, or registration of firearms, ammunition, or components of firearms or ammunition; however, this Section shall not apply to the levy and collection of sales and use taxes, license fees and taxes and permit fees, nor shall it affect the authority of political subdivisions to prohibit the possession of a weapon or firearm in the commercial establishments and public buildings enumerated in R.S. 40:1379.3(N)."*³⁵

During this study, the question was raised whether the current structure of the Comprehensive Zoning Ordinance, which separates commercial (including firearm sellers) and residential districts, violates Louisiana's preemption statute. To answer this, the Supreme Court of Louisiana's decision in *Civello v. City of New Orleans* was examined.

In *Civello*, the issue presented was whether a zoning ordinance forbidding business establishments in a residential district was a valid exercise of police power. The Supreme Court of Louisiana held that it was. The Court explained that Section 29, Article 14 of the Constitution of 1921 states that "all municipalities are authorized to zone their territory; to create residential, commercial, and industrial districts, and to prohibit the establishment of places of business in residential districts." And it was the Court's

28 La. Const. Ann. art. VI, § 17.

29 See Home Rule Charter of the City of New Orleans, Article V, § 5-401, et al.

30 La. Const. Ann. art. VI, § 9(B).

31 *Varnado v. Southern University at New Orleans*, App. 4 Cir.1993, 621 So.2d 176.

32 See *Varnado v. S. Univ. at New Orleans*, 621 So.2d 176, 178 (La. Ct. App.1993); See also *St. Tammany Par. Gov't v. Welsh*, 2016-0650, p. 2 (La. 6/17/16); 194 So.3d 1109.

33 *Jefferson Par. v. Universal Fleeting Co.*, 234 So.2d 88 (La. Ct. App.1970).

34 See La. Rev. Stat. Ann. § 40:1796.

35 La. Rev. Stat. Ann. § 40:1796.

understanding that “what is said after the expression ‘to zone their territory’ merely explains the comparatively new meaning of the verb ‘zone’; that is to separate the commercial or industrial district or districts from the residence district or districts, and to prohibit the establishment of places of business in any designated residence district.”

The Supreme Court of the United States also found in several cases that local governments may for the general welfare, exercise the police power to the extent of forbidding property owners in a designated residential district from using their property for business purposes. This is supported in the examples given that highlight the City of Fargo and Chicago, who both have state preemption laws to adhere to, albeit less restrictive than the State of Louisiana, but can prohibit the sale of firearms for home-based businesses.

New Orleans’ Comprehensive Zoning Ordinance current framework which separates all commercial and residential uses is permissible and likely does not violate the state’s preemption statute. However, based on the state’s broad preemption statute (L.A. 40:1796), the City Attorney’s Office is of the opinion that creating a separate use for Firearm Sales would likely be more restrictive than state law and therefore violate La. R.S. 40:1796 and abridge the State’s police power. If stricter laws governing firearm sales are desired, the Council may wish to relay these sentiments to the Louisiana State Legislature, who is vested with the power to enact such change.

Assessment of Impact to Prohibit the Sale of Firearms Within 1,000 feet of Educational Facilities

It is the position of the City Attorney’s Office that creating a separate use for firearm sales would likely violate Louisiana’s preemption law (La. R.S. 40:1796). Based on this position, further restricting the sale of firearms within 1,000 feet of an Educational Facility would likely also violate the state preemption law, as well as the state’s Firearm-Free Zone law. The Firearm-Free Zone statute currently restricts the sale of firearms within 1,000 feet of an Educational Facility; however, it provides several exceptions that protect the commercial sale of firearms within firearm-free zones. If the City attempted to decrease this distance, it would likely violate the state’s preemption law (La. R.S. 40:1796), as well as the state’s Firearm-Free Zone statute (La. R.S. 40:1796).

Further Considerations

Providing the Public with More Information

To keep the public informed, CPC Staff recommends that the City create a map or dashboard, much like the existing Firearm Free Zone Map that the City Planning Commission maintains on its website, that lists the registered firearm dealers.³⁶ Moreover, the New Orleans Police Department could share Federal Firearm Background Check (NICS) data received from firearm dealers, pursuant to Sec. 54-350. - Information required for sale of firearms or destructive devices of the city code. Such information could include the number of background checks performed and the number of denials. This information would allow the public to better understand the commercial transactions of firearms within New Orleans, while adhering to the parameters of Louisiana’s preemption law.

³⁶ [City Planning - Topics - Firearm-Free Zones - City of New Orleans \(nola.gov\)](#)

Gun Violence Prevention Efforts

As previously mentioned above with the data provided by the ATF, most guns recovered in a New Orleans related crime were not purchased within city limits. As a result, it would be unlikely that such land use regulations would have the desired impact. Instead, the issue could be approached more holistically, in tandem with prevention measures already in place or previously used.

Gun violence prevention measures have been a cornerstone mission for many New Orleans administrations for the past two decades, including implementing evidence-based strategies and programs such as CeaseFire New Orleans, Midnight Basketball, and even partnering on a limited number of firearm buy back events with local organizations.

In early 2023, the New Orleans Health Department formed the Office of Violence Prevention (“OVP”) with a subsection focused on gun violence prevention to embark on a burgeoning new approach to violence prevention efforts that will provide holistic oversight and align the criminal justice system, healthcare system, and the City’s administration. The purpose of the OVP is to oversee a largescale effort to implement a whole village model to violence prevention, including providing both hospital and community-based social workers that can interrupt the cycle of violence when it’s happening, work with community partners to implement community outreach on public safety efforts such as gun safety education, and provide financial and health related resources for trauma victims.

Meeting the most vulnerable populations where they are and providing them with much needed community resources is an effective ecosystem style approach that can work across sectors and silos, to offer a solid foundation for gun violence prevention. Furthermore, the Office of Violence Prevention’s mission is to work with other violence prevention offices across the country. This includes the new federal Office of Gun Violence Prevention led by Vice President Kamala Harris, which is charged with advocating for gun reform laws and legislation at the state and federal levels of government.

Conclusion

Gun violence plagues communities across the country, including New Orleans. Effective gun control measures are immensely important to address this epidemic. However, Louisiana has one of the most restrictive state preemption laws in the country regarding the sale, purchase, possession, or ownership of firearms. As a result, the City must address the issue within the confines of this statute. Any desired changes would need to be addressed with the State Legislature. Should the City pursue amendments to the State’s pre-emption law, it should consider the exceptions provided by North Dakota and Illinois, which have allowed the cities of Fargo and Chicago to limit the location of gun sales through zoning.

Therefore, the City Planning Commission’s recommends providing more publicly available information on the issue, including smart gun ownership information, and utilizing available avenues, including partnerships at the local, state, and federal level, to tackle gun violence through holistic community led programs, to improve the safety and quality of life for all residents.

City Planning Commission Public Hearing Minutes

The City Planning Commission staff presented a summary of the Firearm Sales Study findings and recommendations at the City Planning Commission public hearing on March 26th, 2024. Dominique Lang spoke from Councilmember Thomas’ office that she appreciated the work of the staff and will lobby the State Legislature to amend State Regulations and promote additional gun prevention programs in the City.

Commissioner Brown commented that the State doesn't have the preemption law restricting local entities to regulate the sale of alcohol within a certain distance of a school, and it was unfortunate that the State's preemption law prohibits the City Planning Commission from enacting any land use regulations on the sale of firearms. Commissioner Brown made a motion to accept the study and staff recommendations. The motion was seconded by Commissioner Steeg and adopted.

Motion

BE IT MOVED BY THE CITY PLANNING COMMISSION THAT THE FIREARM SALES STUDY IS HEREBY ACCEPTED WITH STAFF RECOMMENDATIONS. BE IT FURTHER MOVED THAT THE EXECUTIVE DIRECTOR IS HEREBY AUTHORIZED TO FORWARD THE STUDY TO THE CITY COUNCIL.

YEAS: BROWN, LUNN, JORDAN, JOHNSON, JOSHI-GUPTA, STEEG, WITRY

NAYS:

RECUSED:

ABSENT: FLICK, JORDAN, STEWART

Appendix A: Federal Firearm Dealer Categories and Types

Dealers

Type 01: Dealer in Firearms Other than Destructive Devices (Includes Gunsmiths)

Application fee: \$200

Renewal (Every three years): \$90

With this license, you can:

- Sell firearms at wholesale or retail.
- Repair firearms or make or fit special barrels, stocks, or trigger mechanisms to firearms.
- Occasionally import firearms. Reference [27 CFR 478.113](#).

Type 02: Pawnbroker in Firearms Other than Destructive Devices

Application fee: \$200

Renewal (Every three years): \$90

With this license, you can:

- Take or receive, by way of pledge or pawn, firearms as security for the payment or repayment of money. Reference [27 CFR 478.113](#).
- Occasionally import firearms.

Type 09: Dealer in Destructive Devices

Application fee: \$3,000

Renewal (Every three years): \$3,000

With this license, you can:

- Sell firearms, including destructive devices, at wholesale or retail.
- Occasionally import firearms. Reference [27 CFR 478.113](#).

Note: No license is required for [dealing ammunition only](#).

Manufacturers

Any person engaged in the business of manufacturing firearms or ammunition by devoting time, attention, and labor to manufacturing firearms or ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms or ammunition manufactured. Reference [27 CFR 478.11](#)

Type 06: Manufacturer of Ammunition for Firearms Other than Ammunition for Destructive Devices or Armor Piercing Ammunition

Application fee: \$30

Renewal (Every three years): \$30

With this license, you can:

- Manufacture ammunition for firearms other than destructive devices or armor piercing ammunition.

Type 07: Manufacturer of Firearms Other than [Destructive Devices](#)

Application fee: \$150

Renewal (Every three years): \$150

With this license, you can:

- Manufacture firearms other than destructive devices, and ammunition for firearms other than destructive devices.
- Sell firearms other than destructive devices at wholesale or retail.
- Occasionally import firearms. Reference [27 CFR 478.113](#).

Type 10: Manufacturer of [Destructive Devices](#), Ammunition for Destructive Devices or [Armor Piercing Ammunition](#)

Application fee: \$3,000

Renewal (Every three years): \$3,000

With this license, you can:

- Manufacture firearms, including destructive devices.
- Manufacture ammunition for firearms, including destructive devices, as well as armor piercing ammunition.
- Sell firearms, including destructive devices, ammunition for destructive devices, and armor piercing ammunition.
- Occasionally import firearms. Reference [27 CFR 478.113](#).

Note: A licensed firearms manufacturer is [not required](#) to also obtain a Type 06 ammunition manufacturer's license to manufacture ammunition at the licensed premises, nor a Type 01 dealer's license to sell the same type of firearms authorized by the manufacturer's license at the licensed premises. A manufacturer of firearms **may not**, however, import firearms, **except** for occasional importation as provided in [27 CFR 478.113](#).

[Importers](#)

Any person engaged in the business of importing or bringing firearms or ammunition into the United States for sale or distribution. Reference [27 CFR 478.11](#).

Type 08: Importer of Firearms Other than [Destructive Devices](#) or Ammunition for Firearms Other than [Destructive Devices](#), or Ammunition Other than [Armor Piercing Ammunition](#)

Application fee: \$150

Renewal (Every three years): \$150

With this license, you can:

- Import firearms other than destructive devices and ammunition other than for destructive devices, and non-armor piercing ammunition.
- Sell the same type of firearms and ammunition authorized to be imported at wholesale or retail.

Type 11: Importer of [Destructive Devices](#), Ammunition for Destructive Devices or [Armor Piercing Ammunition](#)

Application fee: \$3,000

Renewal (Every three years): \$3,000

With this license, you can:

- Import firearms, including destructive devices, and ammunition, including ammunition for destructive devices and armor piercing ammunition.
- Sell firearms, including destructive devices, and ammunition, including ammunition for destructive devices and armor piercing ammunition at wholesale or retail.

Note: A licensed firearms importer is **not required** to also [apply for a license](#) as a dealer in firearms to sell the same type of firearms authorized to be imported by the importer's license. However, an importer may not manufacture firearms **without** obtaining a separate manufacturer's license.

[Collectors](#)

Any person who acquires, holds or disposes of firearms as curios or relics. Reference [27 CFR 478.11](#).

Type 03: Collector of [Curios and Relics](#)

Application fee: \$30

Renewal (Every three years): \$30

With this license, you can:

- Acquire curios and relics in any state and transport or bring those curios and relics back to the collector's state of residence.
- Sell, trade, or transfer curios and relics to residents of the collector's state, as well as a licensee who does not reside in the collector's state of residence.

Note: This license allows you to acquire curio and relic firearms in [interstate commerce](#); to transfer, sell, or deliver curio and relic firearms to another licensee who is a resident of any state; and to transfer curio and relic firearms to another licensee at a qualifying gun show or event in a state other than the collector's state of residence. A collector's license **does not** authorize a collector to engage in the business of dealing in firearms, even when those firearms are curios and relics.

A person needs to obtain a new license if an existing firearms business is moved to a new location. The amended license ([ATF Form 5300.38](#)), must be filed not less than 30 days prior to the move. An amended license must be obtained before commencing business at the new location. Once the new license is obtained, the licensee may no longer conduct business at the former business premises.