Ordinance amending the Police Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Police Code is hereby amended by adding Section 620, to read as follows:

SEC. 620. UNFINISHED FIREARM FRAMES AND RECEIVERS; MANUFACTURE OR ASSEMBLY OF UNSERIALIZED FIREARMS.

(a) Findings.

(1) “Ghost guns” are untraceable and unregulated firearms that are often assembled by unlicensed individuals using build-it-yourself kits.

(2) The main precursor part of an assembled firearm is an unfinished “frame” or “receiver,” which contains the firing mechanism, to which other parts are attached. Unfinished frames
and receivers are often referred to as “80%” receivers or frames, because they are manufactured just below the percentage of completion that would qualify them as firearms under federal and state law.

(3) Sellers often package together an unfinished frame or receiver with all the other parts needed to assemble a ghost gun in a build-it-yourself “ghost gun kit,” with the purpose of avoiding firearms regulations. Assembling the parts into a lethal ghost gun can readily be done by untrained amateurs using common household tools.

(4) Ghost gun precursor parts and kits are typically sold by unregulated sellers online, in retail stores or at gun shows, without the protections that California and federal law apply to the manufacture, sale, and transfer of firearms. As of May 2021, no background checks, waiting periods, sale records, age restrictions, or limits on numbers of purchases apply to purchases of precursor parts or kits.

(5) Any person with cash in hand – whether a domestic abuser, teenager, gun trafficker, or a person contemplating suicide – can purchase unfinished frames or receivers, from which many can easily build a working firearm. Unfinished frames or receivers, and ghost gun kits, cost far less than firearms produced by licensed manufacturers.

(6) In addition, unlike guns produced by licensed firearms manufacturers, a gun assembled using an unfinished frame or receiver does not have a unique serial number allowing it to be traced to the manufacturer, dealer, and purchaser – hence the term “ghost gun.” Although California law requires individuals who assemble firearms to pass a background check, obtain a serial number for the gun, and affix the serial number to the gun within 10 days of assembly, it is all too easy for anyone, including individuals prohibited from purchasing a firearm, to evade these requirements. The absence of a background check makes it possible for persons whom the law recognizes as too dangerous to be permitted to purchase a firearm, to nonetheless be able to do so. And the absence of a serial number on ghost guns cripples the efforts of law enforcement to identify individuals who have used such guns in the commission of a crime, thereby further endangering public safety.
(7) Sales of ghost gun precursor parts and kits present serious safety risks, not only for possible victims of gun violence, but also for those who purchase or otherwise possess ghost guns. The precursor parts and kits are often able to skirt the critical consumer safety requirements that apply to new models of handguns sold by licensed dealers and manufacturers in California. California’s Unsafe Handgun Act is designed to ensure that firearms sold in the state function properly and are equipped with lifesaving features that protect lawful users. However, ghost guns assembled from precursor parts and kits typically fail to include essential safety features mandated by the Act. Further, a firearm assembled by an untrained amateur also may be of poor quality and unsafe. And purchasers of precursor parts and build kits typically avoid completing the firearms safety test that California requires of firearms purchasers.

(8) The increased availability of ghost guns poses enormous risks to public safety in San Francisco and undermines law enforcement efforts to prevent gun violence. Not surprisingly, the number of ghost guns recovered by law enforcement in San Francisco, as well as in other cities in California, is rising rapidly. In San Francisco, the number of ghost guns seized by local law enforcement jumped 2,733% from 2016 to 2020. This rapid increase continued in 2021, and in the first two months of 2021, ghost guns seized by law enforcement in San Francisco increased by 350% compared to 2019. Further, ghost guns have substantially increased as a proportion of all guns seized in San Francisco. In 2016, ghost guns were less than 1% of all firearms seized in San Francisco, but by 2020, ghost guns represented over 16% of all firearms seized in San Francisco.

(9) San Francisco’s experience with ghost guns has paralleled the experience of other cities in California. The California Bureau of Firearms seized 512% more ghost guns from persons identified through the Armed Prohibited Persons System database in 2019 than in 2018. The federal Bureau of Alcohol, Tobacco, and Firearms (ATF) reported in 2019 that 30% of crime guns it recovered in California were ghost guns. In January 2020, the ATF’s Los Angeles Field Division reported that over 40% of its cases involved these weapons. In February 2021, the Los Angeles City Attorney
announced that law enforcement had recovered over 700 Polymer80 ghost guns, one brand of ghost
gun parts/kits, in Los Angeles in 2020. Ghost guns have been used in a wide variety of crimes in
California, including homicides, robberies, school shootings, mass shootings, killings of law
enforcement officers, and domestic violence.

(10) San Francisco has a compelling interest in protecting its residents from gun
violence. It has among the strongest – if not the strongest – firearm safety laws in California. For
example, in 2015, San Francisco enacted an ordinance requiring firearms dealers to install video
surveillance systems to record all sales and transfers of guns and ammunition, and to report
information about ammunition sales to the Police Department. See Ordinance 190-15. San
Francisco’s strong gun violence prevention laws are being undermined by the increase in unregulated
sales of ghost gun kits and precursor parts.

(11) As of May 2021, no licensed gun dealers operated in San Francisco. The last
licensed gun dealer closed in 2015. The absence of licensed gun dealers in San Francisco increases
the likelihood that residents of San Francisco will seek out ghost gun precursor parts and kits.

(b) Definitions.

For purposes of this Section 620, the following definitions shall apply:

“Antique Firearm” has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).

“Assemble” means to fit together component parts.

“Federal Firearms Importer or Manufacturer” means a person licensed to import or
manufacture firearms pursuant to 18 U.S.C. Chapter 44.

“Manufacture” means fabricate, make, form, produce, or construct by manual labor or
machinery.

“Precursor Parts Vendor” means a person or entity holding a precursor parts vendor license
issued under California Penal Code Sections 30400 et seq.
“Unfinished Frame or Receiver” means a piece of any material that does not constitute the frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling, or other means.

(c) It shall be unlawful for any person to possess, sell, offer to sell, transfer, purchase, transport, receive, or Manufacture an Unfinished Frame or Receiver, unless the person is a Federal Firearms Importer or Manufacturer, or the Unfinished Frame or Receiver is required by federal law to be imprinted with a serial number issued by a Federal Firearms Importer or Manufacturer and the Unfinished Frame or Receiver has been imprinted with the serial number. The foregoing prohibition shall not apply to or affect any of the following:

(1) An employee or sworn peace officer of a local, state, or federal law enforcement agency, if the individual is acting in connection with official duties; or

(2) A person who is on the centralized list of exempted federal firearms licensees maintained by the California Department of Justice pursuant to California Penal Code Sections 28450, et seq.; or

(3) A person whose licensed premises are outside the City and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued under that Chapter; or

(4) A common carrier licensed under state law, or a motor carrier, air carrier, or carrier affiliated with an air carrier through common controlling interest that is subject to United States Code Title 49, or an authorized agent of any such carrier, when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property; or

(5) Possession, purchase, transport, or receipt of an Unfinished Frame or Receiver by a Precursor Parts Vendor; or
(6) Sale or transfer of an Unfinished Frame or Receiver processed through a Precursor Parts Vendor pursuant to Penal Code Section 30400, et seq., provided that the Precursor Parts Vendor ensures that prior to the purchaser or transferee taking possession of the Unfinished Frame or Receiver, the purchaser or transferee obtains a serial number from the California Department of Justice pursuant to California Penal Code Sections 29180 and 29182, the serial number is permanently affixed to the Unfinished Frame or Receiver, and the California Department of Justice is provided sufficient information to identify the purchaser or transferee pursuant to those Penal Code sections; or

(7) Possession of an Unfinished Frame or Receiver by the person who obtained it through a transaction processed by a Precursor Parts Vendor in compliance with subsection (c)(6) of this Section 620.

(d) It shall be unlawful for any person to Manufacture, cause to be Manufactured, Assemble, or cause to be Assembled, a firearm that has not been imprinted with a serial number issued by a Federal Firearms Importer or Manufacturer in accordance with federal law. The foregoing prohibition shall not apply to or affect any of the following:

(1) A firearm that has been rendered permanently inoperable; or

(2) An Antique Firearm; or

(3) A firearm that has been determined to be a collector’s item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44; or

(4) An employee or sworn peace officer of a local, state, or federal law enforcement agency, if the individual is acting in connection with official duties; or

(5) The Manufacture or Assembly of a firearm with a frame or receiver processed through a Precursor Parts Vendor pursuant to Penal Code Sections 30400, et seq., provided that the Precursor Parts Vendor ensures that prior to the purchaser or transferee taking possession of the Unfinished Frame or Receiver, the purchaser or transferee obtains a serial number from the California Department of Justice pursuant to California Penal Code Section Sections 29180 and 29182, the serial
number is permanently affixed to the Unfinished Frame or Receiver, and the Department of Justice is
provided sufficient information to identify the purchaser or transferee pursuant to those Penal Code
sections.

(e) Penalty. Violation of any of the provisions of this Section 620 is a misdemeanor and upon
conviction the violator may be punished by a fine not to exceed $1,000 or by imprisonment in the
county jail not to exceed six months, or by both.

(f) Preemption. Nothing in this Section 620 shall be interpreted or applied so as to create any
requirement, power, or duty in conflict with any federal or state law.

(g) Promotion of General Welfare. In enacting and implementing this Section 620, the City is
assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on
its officers and employees, an obligation for breach of which it is liable in money damages to any
person who claims that such breach proximately caused injury.

(h) Severability. If any subsection, sentence, clause, phrase, or word of this Section 620, or any
application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
portions or applications of the Section. The Board of Supervisors hereby declares that it would have
passed this Section and each and every subsection, sentence, clause, phrase, and word not declared
invalid or unconstitutional without regard to whether any other portion of this ordinance or application
thereof would be subsequently declared invalid or unconstitutional.
Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:  /s/ Bradley A. Russi
      BRADLEY A. RUSSI
      Deputy City Attorney

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File Number: 210540 Date Passed: September 14, 2021

Ordinance amending the Police Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions.

July 22, 2021 Public Safety and Neighborhood Services Committee - RECOMMENDED

September 07, 2021 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 14, 2021 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210540

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/14/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

09/24/2021
Date Approved