



Written by [Bob Adelman](#) on January 26, 2022

## San Jose City Council Moves to Tax Lawful Gun Owners and Require Them to Buy Liability Insurance

Even after being warned against moving to tax law-abiding gun owners and require them to buy liability insurance, the San Jose City Council [voted overwhelmingly](#) on Tuesday to move ahead with those infringements.

The city's mayor, Sam Liccardo, even admitted during the hours-long council meeting that the new measures would do nothing to reduce violent crime: "This won't stop mass shootings and keep bad people from committing violent crime." But he justified the move by concern that the availability of firearms in homes somehow risks an increase in suicides. And besides, said the mayor, the cost of gun violence in San Jose costs the city millions and, therefore (by his reasoning), law-abiding gun owners should help defray some of that expense.



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The fee would be \$25 per firearm (which assumes that the city either already knows where they are and who owns them, or would establish some sort of registry to collect such data), and liability insurance would be required to cover costs related to "accidental use of the firearm, including death, injury, or property damage," according to the Associated Press.

This ignores the fact that, according to the Crime Prevention Research Center, gun owners are already among the safest, lowest-risk individuals in the country. But the tax and insurance, according to the anti-gun majority on the council, would "incentivize" gun owners to take extra special care of their weaponry, take gun safety classes, and lock up their firearms at home when not in use.

How would such an ordinance be enforced? The mayor said the liability insurance would be just like car insurance, which he said (without proof) has already dramatically reduced traffic fatalities. Implementation would fall to law-enforcement officers making routine traffic stops, by requiring them to ask drivers if they own a firearm and if they have liability insurance, and to demand to "see proof of that insurance."

All of this was just too much for Dudley Brown, president of the National Association for Gun Rights and executive director of the National Foundation for Gun Rights. Just before the final vote on Tuesday night, Brown told CNN:

We've opposed this ordinance every step of the way, and we will see this through to the end. If the San Jose City Council actually votes to impose this ridiculous tax on the Constitutional



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right to gun ownership [the final vote is scheduled to take place at the next monthly meeting in February], our message is clear and simple: see you in court.

That's what he promised [in a letter](#) his foundation had their lawyers send to each member of the council back in July.

From the letter:

This Firm represents the National Foundation for Gun Rights. It has come to our attention that on June 29, 2021, you voted unanimously to have the City Attorney research and draft an ordinance that would impose a mandatory fee on gun owners and require them to buy gun liability insurance. Given that the city's own press release regarding the proposed ordinance, concedes that "criminals won't obey these mandates," the City of San Jose is seeking to impose a tax on a select group of law abiding citizens simply for exercising their right to keep and bear arms.

The letter reminded council members that the issue was settled at the Supreme Court, in two rulings: *McDonald v. City of Chicago* held that the Second Amendment not only guarantees the right of individuals to keep and bear arms, but also guarantees against infringement by the individual states through the Fourteenth Amendment; and *Nordyke v. King* held that the Second Amendment is "fundamental and is incorporated against states and municipalities" like the City of San Jose.

The attorneys added:

What you propose to do strikes at the very core of this fundamental right and seeks to punish (though registration and taxation) citizens of your city who have committed no crime or offense.

The attorneys made it sound as if the council members were suffering a temper tantrum: "It is easily understood that the goal of the proposed ordinance is to suppress and discourage the exercise of the right to keep and bear arms ... [which is] presumptively unconstitutional."

The warning by Brown through his attorneys was clear to the San Jose City Council, or should have been:

Please be advised that should you pass the proposed ordinance and blatantly violate the constitutional rights of the residents of San Jose, my clients have authorized our firm to file a lawsuit against the City to protect the constitutional rights of their members. This lawsuit will be brought pursuant to 42 U.S.C. §1983 for the deprivation of constitutional rights.

As such, once we prevail in protecting the residents of San Jose's constitutional rights, our firm will then seek our reasonable attorney fees under 42 U.S.C. §1988(b).

We thereby strongly encourage you to reconsider moving forward with the proposed ordinance.

CNN noted in its coverage of the vote by the city council that the legislation, if passed into law, would be "the first of its kind" in the country. If the San Jose City Council votes in February to approve it,



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Brown's attorneys are prepared to make it the last.



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