



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 3/21/2023

To: Board of Supervisors of Sonoma County

Department or Agency Name(s): Agriculture/Weights & Measures

Staff Name and Phone Number: Gina Lehl, (707) 565-3448

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Delegation of Settlement Authority in Civil Code Enforcement Actions

Recommended Action:

- 1) Adopt a Resolution delegating settlement authority to the Agricultural Commissioner/Sealer of Weights & Measures or designee to settle costs, fees and/or other penalties of up to \$75,000 per violation, not to exceed \$300,000 in total for each matter.
- 2) Adopt a Resolution authorizing the Agricultural Commissioner/Sealer and County Counsel to directly file nuisance abatement litigation for egregious violations in lieu of following the administrative abatement process.

Executive Summary:

The Department of Agriculture/Weights & Measures has the responsibility for managing the prosecution of civil code enforcement actions on behalf of the County. The programs currently administered in the Department where these actions take place include the Vineyard Erosion and Sediment Control program (VESCO), Industrial Hemp program, Vineyard and Orchard Frost Protection program and the Cannabis program. The administrative actions are taken due to violations of county code related to requirements which are administrative in nature and those that provide for protection of the environment.). Occasionally, a compromise settlement is appropriate in a civil code enforcement action where compliance could be achieved more quickly through a settlement instead of going through the appeals and hearing process. This is especially helpful when there is potential or actual environmental damage occurring and a settlement would speed up the process of coming into compliance. The authority to settle a code enforcement action requires Board of Supervisors approval in each instance. Request for delegation is intended to expedite resolution and streamline the process.

Additionally, the Department recommends the Board grant authority to the Agricultural Commissioner/Sealer and County Counsel to directly file litigation in lieu of using the administrative procedures in the county code in order to allow for more efficient and effective enforcement of egregious violations, such as those that involve a risk to health and safety, environmental damage, or repeat or flagrant violations.

Discussion:

Delegated Settlement Authority

Department staff recommends a limited settlement authority for code enforcement actions, both before

formal civil litigation is commenced and after, be delegated to the Agricultural Commissioner/Sealer of Weights & Measures. Currently, the Department is unable to settle or compromise any civil code enforcement action for less than full payment of all accrued costs and penalties without first obtaining approval from the Board. Limited settlement authority would be permitted as follows:

- The Agricultural Commissioner/Sealer of Weights & Measures (Commissioner/Sealer) or his/her designee will seek advice and assistance from County Counsel.
- The compromised amount will be determined based on a number of factors including but not limited to: previous violations, cooperation/willingness to come into compliance, legitimate defenses, resources available for ongoing enforcement efforts, etc.
- The compromised amount will be conditioned upon otherwise full code compliance within an established time.
- The amount of such compromised costs, fees, and/or other penalties, as assessed pursuant to Chapter 1 of the Sonoma County Code, will be limited to up to \$75,000 per violation. Any proposed settlement exceeding \$300,000 in total costs and penalties will be presented for Board approval.

Authority to Directly File Judicial Action

On March 7, 2017, the Board adopted a resolution authorizing Permit Sonoma and County Counsel to bypass the administrative process and directly file litigation to abate egregious violations. The Department of Agriculture/Weights & Measures requests similar authority for situations where necessary to protect the public and/or the environment. The Department usually works with the property owner through the administrative abatement process outlined in Section 1-7.3 of the County Code to correct the violation(s) and bring the property into compliance. However, in the case of egregious violations, directly filing litigation is a more effective and efficient way of achieving compliance. These egregious cases are characterized by risks to health and safety, environmental damage, or repeat or flagrant violations. The abatement process outlined in Section 1-7.3 requires the Department to request authority from the Board prior to filing a civil action on a case by case basis, including for egregious cases. This process may cause delays in enforcement efforts to address the violations, due to the time that may be needed to bring an item to the Board before litigation can begin. The recommended policy change would allow the Department and County Counsel to together find that there is an immediate significant threat to public health and/or safety and jointly consent to file a lawsuit, and then come to the Board within 90 days after the court accepts the filing, for ratification of the action.

Strategic Plan:

Organizational Excellence

Goal 1: Strengthen operational effectiveness, fiscal reliability, and accountability.

Objective 4. Streamline routine administrative procedures and workflows and delegate more signature authority to department heads in order to re-direct work force resources to more strategic priorities.

Prior Board Actions:

5/8/12 Adopted Vineyard and Orchard Frost Protection Ordinance (Ord. No. 5986)

2/4/2020 Adopted Industrial Hemp Ordinance (Ord. No. 6298)

3/16/2021 Adopted New Vineyard and Orchard Development, Replanting, and Agricultural Grading and Drainage Ordinance (Ord. No. 6338)

10/16/2018 Adopted Cannabis Land Use Ordinance (Ord. No. 6245)

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Settlement amounts will include both costs incurred in bringing the actions and abatement as well as fines. Operations are not financed based on fines and this authority would not affect the level of operations in the program. Additionally, the settlements would in no case be for less than the County’s costs incurred in the action being taken.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Resolution

Related Items “On File” with the Clerk of the Board:

N/A