



COUNTY OF SONOMA

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

SUMMARY REPORT

Agenda Date: 2/28/2023

To: Board of Supervisors of Sonoma County
Department or Agency Name(s): County Administrator's Office/County Counsel
Staff Name and Phone Number: Sita Kuteira 565-1106
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:

1:30 P.M. Private Right of Action for Firearms Safety Zone Restriction

Recommended Action:

Adopt a Resolution introducing, reading the title of, and waiving further reading of an ordinance amending Sonoma County Code Section 1-7.2 to add a private right of action for violations of the firearms safety zone restriction in Sonoma County Code Section 19A-5. (First Reading)

Executive Summary:

The proposed ordinance would establish a private right of action for those impacted by violations of the firearms safety zone restriction in Sonoma County Code Section 19A-5 that prohibits the use of firearms near certain areas and structures on neighboring properties. By adding this to the list of code violations for which an individual may bring a private action to Sonoma County Code Section 1-7.2, the prevailing party in a related action would also be entitled to attorney's fees.

Discussion:

Sonoma County Code Section 1-7.2 establishes a private right of action for individuals damaged by certain violations of county code. This means that as an alternative to criminal enforcement or civil enforcement action by the County, an individual may file a civil action to address the violation and damage caused to them and their property. Under the provision, the prevailing party is also entitled to reasonable attorney's fees and costs in accordance with a court order. Currently, county code establishes a private right of action with attorney's fees for building code violations, zoning code violations, and violations of certain public health regulations.

Sonoma County Code Section 19A-5 contains the following provision known as the "firearm safety zone restriction" intended to protect people on neighboring properties from dangerous firearm use:

Any person who discharges any small arm device within one hundred fifty (150) yards of any building, dwelling house, camp, or other place where human beings inhabit, assemble, frequent, or pass, excepting publicly maintained roads, said one hundred fifty (150) yard area being hereby declared a "safety zone," is guilty of a misdemeanor and is punishable by imprisonment in the county jail for not more than six (6) months or by fine not exceeding five hundred dollars

(\$500.00), or by both such fine and imprisonment. As used in this section "inhabited" means currently being used for dwelling purposes, whether occupied or not.

The proposed ordinance would establish a private right of action for an individual to file a civil action for a violation of Section 19A-5 and be entitled to attorney's fees if they prevail. While it is generally straightforward to determine the location of a safety zone around a dwelling or other inhabited building, it can be much more challenging when it comes to outdoor spaces such as backyards, fields, orchards and gardens, hiking trails, and picnic areas. Determining which areas are used in a way that falls under the language of the restriction and where the outer boundaries are may require a fact intensive inquiry. Property owners are likely to have the factual information necessary to determine the boundaries of the areas on their property that are used in such a way to qualify for a safety zone under the provision, and so a private right of action would be an appropriate and valuable tool for enforcing the firearms safety zone restriction.

Establishing a private right of action does not affect law enforcement's authority to criminally enforce the provision nor the County's authority to civilly enforce violations of county code. □

Strategic Plan:

N/A

Prior Board Actions:

N/A

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:

None

Staffing Impacts:

Agenda Date: 2/28/2023

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

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

Resolution

Ordinance

Related Items "On File" with the Clerk of the Board:

None