

Meeting Date: 1/26/2016

Report Type: Consent

Report ID: 2016-00073

Title: Ordinance Amending Section 9.32.130 of the Sacramento City Code Relating to Discharge of Firearms (Passed for Publication 01/19/2016; Published 01/22/2016)

Location: Citywide

Recommendation: Pass an Ordinance amending Sacramento City Code section 9.32.130 relating to discharge of firearms.

Contact: Dave Risley, Police Captain, North Command, (916) 808-6464, Police Department

Presenter: None

Department: Police

Division: North Command

Dept ID: 11001151

Attachments:

1-Description/Analysis

2-Ordinance (Redlined Version)

3-Ordinance (Clean Version)

City Attorney Review

Approved as to Form

Michael Fry

1/11/2016 4:17:54 PM

Approvals/Acknowledgements

Department Director or Designee: Sam Somers - 1/4/2016 3:50:37 PM

Description/Analysis

Issue: In June 2015, the Sacramento Police Department's (SPD) Shot Spotter sensor system became operational in the Del Paso Heights area of the City. The system deploys approximately 100 audio sensors over a 3-square mile area, which monitor for the sound of gunshots. The sensors detect a noise (i.e. gunshot, fireworks, car backfire) and the system can usually confirm whether the sound is a gunshot or not in less than 60 seconds and immediately notify SPD dispatch. The system acoustically pinpoints the sound to within approximately 20 feet of the location. This has enhanced SPD's ability to more expeditiously respond to shooting incidents.

The system has also been successful in locating individuals who simply discharge their firearms for no lawful reason. When filing charges against these individuals, SPD has encountered some reluctance from the District Attorney's (DA) Office in prosecuting the violations since Penal Code section 246.3 requires the DA's Office to prove the person discharged the firearm in a "grossly negligently manner which could result in death or injury." If no one else is present or in the general vicinity when a person discharges a firearm, the ability to prove each element of the crime beyond a reasonable doubt can be a challenge.

The current Sacramento ordinance prohibits the discharge of any firearm within the City with limited exceptions permitted (i.e., discharge by a peace officer, use at an approved firing range, etc.).

The proposed amendment would increase the violation of Section 9.32.130 from an infraction to a misdemeanor and define the term "firearm." Currently, any violation under Title 9 is only citable as an infraction unless the violation is otherwise specified to be a misdemeanor. (SCC § 9.48.010.) The proposed amendment would also update the language in the exceptions section.

Policy Considerations: The City Council has identified support of legislation that improves the safety, security, and quality of life for Sacramento residents as one of its legislative platform initiatives, particularly as it relates to reducing and preventing gun violence, drug use, and gang violence.

Economic Impact: None.

Environmental Considerations: Not applicable.

California Environmental Quality Act (CEQA): This proposal does not constitute a “project” and is therefore exempt from the CEQA process, per Sections 15061(b)(3) and 15378(a) of the CEQA Guidelines.

Sustainability Considerations: Not applicable.

Commission/Committee Action: On December 8, 2015, the Law and Legislation Committee reviewed the proposed ordinance and approved the item for forwarding to the City Council.

Rationale for Recommendation: Negligently discharged firearms and the associated bullets have been known to penetrate walls, roofs, and cars, injuring and killing innocent people and damaging property, even from a considerable distance. The purpose of the proposed amendment is to impose more severe penalties upon individuals who discharge a firearm for no lawful reason because it is dangerous and potentially harmful to Sacramento residents.

Financial Considerations: There is no financial impact associated with implementing the proposed amendment.

Local Business Enterprise: Not applicable.

ORDINANCE NO. _____

Adopted by the Sacramento City Council

[Date Adopted]

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 9.32 OF THE
SACRAMENTO CITY CODE RELATING TO THE DISCHARGE OF FIREARMS
WITHIN THE CITY**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 9.32.010 of the Sacramento City Code is amended to read as follows:

9.32.010 ~~“Dangerous or deadly weapon” defined~~Definitions.

The following definitions apply in this chapter:

~~The term~~ “Dangerous or deadly weapon” includes means, but is not limited to, any dirk or dagger; any knife with a blade three inches or more in length; any snap-blade, spring-blade or push-button knife, regardless of the length of the blade; any ice pick or similar sharp stabbing tool; any straight-edge razor or any razor blade fitted to a handle; any dangerous or deadly weapon within the meaning of any law of this state restricting the use thereof; any cutting, stabbing or bludgeoning weapon or device capable of inflicting grievous bodily harm and any firearm other than one carried pursuant to a valid permit, issued by a duly authorized governmental authority, or any ordinary rifle or shotgun lawfully carried for purposes of hunting or other lawful sport. ~~(Prior code § 48.01.001)~~

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, which expels a projectile through a barrel by the force of an explosion or other form of combustion.

“Law enforcement officer” means any federal law enforcement officer or peace officer as defined under Section 830 and following of the California Penal Code.

SECTION 2.

Section 9.32.130 of the Sacramento City Code is amended to read as follows:

9.32.130 Firearms- ~~Use~~Discharge in city prohibited generally-~~Exceptions.~~

Except as provided in ~~the following section~~Section 9.32.140, no person shall fire or discharge any firearm of any kind within the city. ~~(Prior code § 26.01.021)~~ Any person violating this section is guilty of a misdemeanor.

SECTION 3.

Section 9.32.140 of the Sacramento City Code is amended to read as follows:

9.32.140 Firearms- ~~Use for certain purposes~~Exceptions to prohibited discharge.

~~The provisions of the preceding section~~Section 9.32.130 ~~as to the use of firearms shall~~does not apply to the following:

A. Law enforcement officers ~~peace officers~~ in the discharge of their official duties and using reasonable care;

B. Persons using firearms in necessary self-defense ~~or necessary defense of others;~~ ~~or in a careful manner for the purpose of destroying noxious animals upon land owned or occupied by them,~~ ~~nor to persons using the Sacramento Trap Shooting Range in Del Paso Park,~~

C. Persons using the Mangan Rifle and Pistol Range;

D. Persons using the shooting ranges at the California Army National Guard armories ~~at 1013 58th Street, 3250 Meadowview Road, and 440 Arden Way;~~ and;

~~A.E. Persons lawfully using gun/ or rifle ranges authorized and established pursuant to the Planning and Development Code,~~ ~~nor to persons lawfully using such gun/rifle ranges. (Ord. 2013-0021 § 26; prior code § 26.01.022)~~

SECTION 4.

Section 9.32.180 of the Sacramento City Code is amended to read as follows:

9.32.180 Reporting of stolen ~~and~~ or lost firearms required.

It is unlawful for any person who owns or possesses a firearm to knowingly or negligently fail to report the theft or loss of such firearm to the Sacramento police department within forty-eight (48) hours of the time he or she knew or should have known the firearm has been stolen or lost, when either the owner or possessor resides in the city, or the theft or loss of the firearm occurs in the city. ~~As used in this section, "firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, which expels a projectile through a barrel by the force of an explosion or other form of combustion.~~ Any person violating this section is guilty of a misdemeanor. ~~(Ord. 2007-066 § 1)~~

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9.32.010 Definitions.

The following definitions apply in this chapter:

“Dangerous or deadly weapon” means, but is not limited to, any dirk or dagger; any knife with a blade three inches or more in length; any snap-blade, spring-blade or push-button knife, regardless of the length of the blade; any ice pick or similar sharp stabbing tool; any straight-edge razor or any razor blade fitted to a handle; any dangerous or deadly weapon within the meaning of any law of this state restricting the use thereof; any cutting, stabbing or bludgeoning weapon or device capable of inflicting grievous bodily harm and any firearm other than one carried pursuant to a valid permit, issued by a duly authorized governmental authority, or any ordinary rifle or shotgun lawfully carried for purposes of hunting or other lawful sport.

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, which expels a projectile through a barrel by the force of an explosion or other form of combustion.

“Law enforcement officer” means any federal law enforcement officer or peace officer as defined under Section 830 and following of the California Penal Code.

SECTION 2.

Section 9.32.130 of the Sacramento City Code is amended to read as follows:

9.32.130 Firearms- Discharge in city prohibited generally.

Except as provided in Section 9.32.140, no person shall fire or discharge any firearm of any kind within the city. Any person violating this section is guilty of a misdemeanor.

SECTION 3.

Section 9.32.140 of the Sacramento City Code is amended to read as follows:

9.32.140 Firearms- Exceptions to prohibited discharge.

Section 9.32.130 does not apply to the following:

- A. Law enforcement officers in the discharge of their official duties and using reasonable care;
- B. Persons using firearms in necessary self-defense or necessary defense of others;
- C. Persons using the Mangan Rifle and Pistol Range;
- D. Persons using the shooting ranges at the California Army National Guard armories;
and
- E. Persons lawfully using gun or rifle ranges authorized and established pursuant to the Planning and Development Code.

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