



City of San Antonio

Agenda Memorandum

File Number:18-5466

Agenda Item Number: 2.

Agenda Date: 9/26/2018

In Control: Public Safety Committee

DEPARTMENT: City Attorney's Office

DEPARTMENT HEAD: Andy Segovia, City Attorney

COUNCIL DISTRICTS IMPACTED: City-wide

SUBJECT:

Update regarding actions available to cities regarding firearms and gun violence.

SUMMARY:

The Public Safety Committee asked that City staff provide an update regarding actions available to cities with regard to regulating firearms and addressing gun violence. The vast majority of local-level authority to regulate guns is preempted by state law. Some action is possible in the areas of land use/zoning, and magistration and conditions of bond for arrested persons.

BACKGROUND INFORMATION:

Cities have extremely limited ability to regulate guns/firearms. Local Gov't Code Sec. 229.001 prohibits, with minor exceptions, cities from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, knives, ammunition, or firearm or air gun supplies or the discharge of a firearm or air gun at a sport shooting range. However, cities may take action regarding firearms and gun use in certain areas and circumstances.

For example, since January 2017 the San Antonio Police Department emphasized addressing gun violence through the efforts of the Violent Crimes Task Force and the Texas Anti-Gang Program. The Task Force and Anti-Gang Program have collectively confiscated over 1,900 firearms in this time. The City has experienced a 26% decrease in gun-related crimes in 2018 compared to 2017 through August 1, 2018. Attached is a map detailing the distribution of gun violence citywide and a breakdown of gun-related crimes by council district for 2017 and 2018, respectively.

ISSUE:

The City can consider the following as possible areas for addressing guns/firearms:

A. *Land use/zoning*

Regulation of land use and zoning is specifically recognized as an available area for cities with regard to regulating firearms. The Development Services Department has worked to create draft Unified Development Code (UDC) amendments to clarify the locations in which firearms can be sold. The UDC currently does not define firearms, firearm sales, or gunsmith. As a result, the closest use category is used to determine the allowed districts for these uses, and that category, “sporting goods”, allows gun sales in all commercial zoning districts.

The proposed UDC amendments define “Firearm,” “Firearm Sales,” and “Gunsmith.” Additionally, the proposed amendments would limit the sale of firearms to “C-3” General Commercial Districts, which is the highest intensity commercial category in the UDC; gunsmith shops are also proposed to be limited to “C-3” General Commercial District and Light Industrial Districts. These clarifications and zoning restrictions would have the effect of limiting the sale of firearms to specific, high intensity commercial areas of the city. Another option could be to add distance criteria for firearm sales to be located at least 1,000 feet from schools and churches, consistent with state and federal law.

B. *Magistration and Conditions of Bonds*

Magistrates (County and City) have the authority to post conditions of any bond before releasing a defendant who has been arrested for a criminal offense from custody. As previously discussed, the City can work with the County to identify defendants that are charged with family violence type cases, weapons cases, and felony cases so that judges can be encouraged to consider imposing a prohibition on the possession of any weapons while out on bond.

C. *Governor’s Report / Legislative Items*

Texas Governor Greg Abbott published a School and Firearm Safety Action Plan on May 30, 2018. Within that plan there are legislative options for the City to support and/or adopt in the City’s 2019 legislative package:

- 1) Creating a statewide case management system to provide magistrates immediate access to critical information regarding defendants;
- 2) Studying a protective order law to keep guns out of the hands of those mentally unfit to bear arms;
- 3) Strengthening firearm storage laws and promoting safe storage and the use of gun locks; and
- 4) Mandating that gun owners report lost or stolen guns within 10 days (Class C).

ALTERNATIVES:

The City Council Public Safety Committee could choose to continue reviewing this matter or to defer taking any action until after the 2019 legislative session has been completed.

FISCAL IMPACT:

None.

RECOMMENDATION:

Staff recommends moving forward with further development of UDC amendments and outreach to stakeholders; coordinating recommendations for conditions of bond for City and County magistrates handling family violence, weapons and felony cases; and, inclusion of identified gun violence and firearms measures into the City's legislative agenda.