

TO: Mayor Montgomery and City Council

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Extreme Risk Protection Order Fund Approval

DATE: March 12, 2024

BACKGROUND

Durning the 2023 Legislative Session a new law covering Extreme Risk Protection Orders (ERPO) was created (MN Statutes 624.7171-624.7178). The intent of this law is to have a Court determine if it is necessary to remove firearms from a person who poses a significant danger of bodily harm to other persons or is at significant risk of suicide by possessing a firearm.

MN Statute 614.7175 addresses the transfer of the firearms from the person subject to the ERPO. The person can transfer the firearms to a federally licensed firearms dealer or a law enforcement agency. The transfer can be temporary or permanent. If a person subject to a ERPO chooses to permanently transfers their firearms to a law enforcement agency, the agency must compensate the person at fair market value and may not charge any processing or other fees. I have consulted with the City Attorney and other City Staff and well as the City's Auditor on the best approach to take to satisfy this requirement.

The first part of this is determining what is a fair market value. The Police Department does not have an expert of value of firearms, so a federally licensed firearms dealer will be used to determine the value. Fair market value is not the price that a person could obtain if selling the firearm to another person, but what the federally licensed firearms dealer would purchase the firearm for. The person with the ERPO always has the choice to make the sale to a federally licensed firearms dealer directly.

The second part is providing compensation to the person with the ERPO for the firearms. The method recommended by the City Attorney would have the City Council establish a fund designated for this purpose by a Resolution in which the Council also sets forth the total amount of money available in the fund, identify the individuals authorized to draw on the fund, and define how fair market value is to be determined. If the fund is depleted, the Council would need to authorize the transfer of additional money into the fund. Under this method, Council approval for each firearm purchase is not required. The purpose of the fund is to enable the City and Police Department to comply with applicable law, including authorization for expenditures and the new ERPO requirements, in an efficient and orderly manner. The person with the ERPO would then be issued a check by the City's Finance Department.

The third part is maintaining and tracking the fund. The firearms would be sold at what is determined to be fair market value by the federally licensed firearms dealer, and once that was received by the City, those funds would be used to replenish the available funds. The City's Auditor was consulted on this process and advised that the fund does not need to be a separate account into which funds are deposited, but the expenditure and

incoming replenishment funds should be tracked to show the funds passing through the City's general account for this purpose.

In consultation with the City Administrator, we feel that an approved amount of Five Thousand (\$5000.00) would be sufficient for most situations. If the amount needed was larger, for example because the new ERPO laws result in the City having to purchase more firearms than anticipated, then it would be brought to the City Council to approve an increase to the total amount of available money in the fund. The expenditure and replenishment would be done in the manner outlined above.

REQUESTED COUNCIL ACTION

Motion and approval of the attached Resolution creating an Extreme Risk Protection Order (ERPO) Fund.

**CITY OF CANNON FALLS
GOODHUE COUNTY, MINNESOTA**

RESOLUTION NUMBER 2741

**RESOLUTION AUTHORIZING CREATION AND USE OF THE
EXTREME RISK PROTECTION ORDER FUND**

WHEREAS, the Cannon Falls Police Department and the City of Cannon Falls is located in Goodhue County; and

WHEREAS, the State of Minnesota passed a law during the 2023 legislative session that created Extreme Risk Protection Orders (“ERPO”), the intent of which is to have a court determine if it is necessary to remove firearms from a person who poses a significant danger of bodily harm to other persons or is at significant risk of suicide by possessing a firearm; and

WHEREAS, under Minn. Stat. § 614.7175, an individual subject to an ERPO may transfer their firearm(s) to a federally licensed firearms dealer or a law enforcement agency. The transfer can be temporary or permanent. If a person subject to an ERPO chooses to permanently transfer their firearms to a law enforcement agency, the agency must compensate the person at fair market value and may not charge any processing or other fees; and

WHEREAS, the City Council of the City of Cannon Falls has the authority to establish fund and designate the City employees who are authorized to draw money from the fund solely for purchasing firearms from persons subject to ERPOs; and

WHEREAS, the purpose of the fund is to enable the City and Police Department to comply with applicable law, including authorization for expenditures and the new ERPO requirements, in an efficient and orderly manner.

NOW, THEREFORE, BE IT RESOLVED, that the City of Cannon Falls City Council authorizes the creation and use of the Extreme Risk Protection Order Fund (“Fund”), as follows:

1. The Fund shall be used to purchase firearms from individuals subject to an ERPO for fair market value pursuant to Minn. Stat. § 614.7175.
2. The City of Cannon Falls and the Cannon Falls Police Department shall utilize a federally licensed firearms dealer to determine the value of the firearm(s) to be purchased.
3. The purchase price as determined by the federally licensed firearms dealer shall be considered to be fair market value.
4. The total amount of the Fund shall be Five Thousand Dollars (\$5000.00).

5. The City shall sell the firearm(s) purchased from an individual subject to an ERPO to the federally licensed firearms dealer in exchange for the amount that was determined to be fair market value and all money received shall be used to replenish the Fund; and

6. The Fund shall be maintained in the City's general fund and all firearm expenditures and incoming replenishment money shall be recorded.

7. The persons authorized to approve payment from the Fund to purchase firearms from individuals subject to an ERPO shall be the Chief of Police, Police Lieutenant and the City Administrator.

8. The persons authorized to sell the firearms purchased by the City shall be the Chief of Police, Police Lieutenant and the City Administrator.

ADOPTED by the City Council of Cannon Falls this 19th day of March, 2024.

CITY OF CANNON FALLS

Matt Montgomery
Mayor

ATTEST: _____
Neil L. Jensen
City Administrator