ORDINANCE NO. ____-2012
AN ORDINANCE AMENDING KITSAP COUNTY CODE CONCERNING
SHOOTING RANGES

WHEREAS, Kitsap County has experienced a substantial increase in population density in areas proximate to its existing shooting ranges and the County has an interest in ensuring the compatibility of shooting ranges with their surroundings and in minimizing noise impacts and potential safety hazards created by the operation of shooting ranges; and

WHEREAS, shooting ranges benefit Kitsap County by providing its residents the opportunity to learn firearm safety, to practice shooting and to participate in amateur recreational firearm sports in a controlled setting; and

WHEREAS, the Washington Constitution, Article XI, Section 11, confers upon county legislative authorities the police power to adopt regulations necessary to protect the health, safety and well-being of its residents; and

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and

WHEREAS, RCW 9.41.300(2) provides that a county may also, by ordinance, restrict the discharge of firearms in any portion of its jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized so long as such ordinance shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

WHEREAS, the Kitsap County Board of Commissioners (Board) finds the requirement of an operating permit for the establishment and operation of all shooting ranges is necessary for the safe conduct of recreational and educational shooting activities in Kitsap County; and

WHEREAS, the Board finds that an operating permit will promote the health, safety and welfare of owners and users of private and public property located in proximity to shooting ranges; and

WHEREAS, the Board finds the Kitsap County Code does not presently regulate the days or hours of operation for discharge of firearms at shooting ranges in unincorporated Kitsap County and that the enactment of restrictions upon days and hours of operation will serve to protect the public health and well-being of persons living in proximity to shooting ranges and to limit nuisance noise conditions.
BE IT ORDAINED:

Section 1. Kitsap County Code Chapter 10.24, Article 3 is hereby amended as follows:

Article 3 Firearms Discharge

Section 2. New Section. A new section is added to chapter 10.24 Kitsap County Code, “WEAPONS,” as follows:

10.24.075 Purpose.

The purpose of this Article is to provide for and promote the health and safety of the general public by establishing a permitting procedure and rules for the development and operation of shooting ranges. The standards adopted herein are intended to protect and safeguard participants, spectators, neighboring properties and the public, while promoting the continued availability of shooting ranges for firearm education, practice in the safe use of firearms, and recreational firearm sports. This operating permit is not intended to alter the legal nonconforming use status and rights of existing ranges, which are governed by Title 17 Kitsap County Code (KCC) and the common law, nor shall this operating permit authorize expansion of range uses which otherwise require approval pursuant to a Conditional Use Permit or other land use permits per Title 17 KCC.

Section 3. Kitsap County Code Section 10.24.080 last amended by Ordinance 50C-1993, is hereby amended as follows:

10.24.080 Definitions.

The following definitions shall apply in the interpretation and enforcement of the ordinance codified in this article:

(1) “Firearm” means any weapon or device by whatever name known which will or is designed to expel a projectile by the action of an explosion. The term “firearm” shall include but not be limited to rifles, pistols, shotguns and machine guns. The term “firearm” shall not include devices, including but not limited to “nail guns”, which are used as tools in the construction or building industries and which would otherwise fall within this definition.

(2) “Shorelines” means all of the water areas of the state, as defined by Chapter 90.58 RCW, including reservoirs, and their associated wetlands, together with the lands underlying them; except (a) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (b) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.
(3) “Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existing on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department, the definition is further guided by the additional criteria to clarify this mark in salt and fresh water environments, as contained in WAC 173-22-030, as now or hereafter amended.

(4) “Shooting range” or “range” means a place set aside and designated for the safe discharge of firearms for individuals wishing to practice, improve upon or compete as to their shooting skills.

(5) “Range Officer (RO)” or “Range Safety Officer (RSO)” means a person or persons appointed by the operators of a shooting range to oversee the safe discharge of firearms in accordance with any conditions of permit approval and any other additional safety rules and procedures adopted by the operators of the shooting range.

(6) “Safety Plan” means the written procedures and or policies of a shooting range specifically defining the safety requirements utilized at that facility.

(7) “Baffles” means barriers to contain bullets and to reduce, redirect or suppress sound waves. Baffles are placed either overhead, alongside or at ground level to restrict or interrupt errant or off-the-target shots.

(8) “Backstop” means a device constructed to stop or redirect bullets fired on a range, usually directly behind the target line.

(9) “Berm” means an embankment used for restricting bullets to a given area, or as a protective or dividing wall between shooting areas.

(10) “Firing Line” means a line parallel to the targets from which firearms are discharged.

(11) “Firing point” means a location from which one individual fires at an associated target down range.

(12) “Target Line” means the line where targets are placed.

(13) “Rules and Regulations” means standards used in the operation of a Facility. Rules and regulations are set up to govern the Facility operations.

Section 4. Kitsap County Code Section 10.24.103, last amended by Ordinance 50G-2000, is amended as follows:

10.24.103 Ranges – Permit required.
(a) Shooting ranges shall be authorized and operated in accordance with an operating permit issued by the Kitsap County Department of Community Development (DCD). The operating permit shall govern the facilities and scope of operations of each shooting range, and shall be issued, denied or conditioned based upon the standards set forth in this Article. No proposed or existing shooting range may operate without an operating permit issued pursuant to this chapter, except as provided in section (b) herein.

(b) Each owner or operator of a shooting range shall apply for and obtain an operating permit. A shooting range operational permit is valid for two years from the date of issuance or renewal. The owner or operator of the range shall apply for a permit renewal in a timely manner to receive approval, prior to the date of current permit expiration. The owner or operator of a proposed new shooting range shall apply for the range operating permit at the time of application for any necessary building or land use permits. The owner or operator of an established shooting range in active use at the time of enactment of this ordinance shall apply for the range operating permit not later than (insert date 90 days after adoption of ordinance). An applicant may allow shooting activities to continue at an existing range under the following minimum conditions until DCD issues a final decision on the application, provided that if any conflicting conditions have been ordered for shooting activities at the range, the more restrictive conditions shall apply:

i. Shooting is restricted to currently established shooting areas.

ii. Shooting may not include: Use of full automatic firearms, use of exploding targets or cannons, or use of .50 or greater caliber firearms; except for black powder shooting currently operation on the range.

iii. Shooting is restricted to the hours of 9:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday and Sunday unless otherwise approved by the Department of Community Development, per this Article. Ranges will be closed on Thanksgiving Day and December 25th.

iv. If the DCD Director determines that a shooting range has violated one or more conditions between enactment of this ordinance and final decision on the permit application, the Director shall issue a written Type I decision pursuant to Kitsap County Code Title 21 ordering that the range may not allow shooting activities until a final decision on the range permit application is issued.

(c) In reviewing an application for a shooting range operating permit or renewal of this permit, DCD shall be guided by the current edition of the “NRA Range Source Book” published by the National Rifle Association. Reference to the NRA Range Source Book may not be used as the basis for any claim of civil liability against Kitsap County or its officers, directors, employees, agents or representatives based upon deviation from, citation to, or reliance upon the NRA Range Source Book.

(d) Shooting ranges shall meet the following standards:
i) Each shooting range shall be designed, operated and maintained to contain bullets, shot or other discharged projectiles within the facility property and to minimize noise impacts to adjacent and nearby properties.

(ii) Each shooting range shall have a safety plan as described herein. A shooting range shall be used only for the shooting activities identified in the Safety Plan.

(iii) Each shooting range shall have at least one qualified Range Operator or Range Safety Officer on duty at all times that shooting activities occur.

(iv) Shooting ranges shall meet all applicable local fire codes when storing explosives.

(v) A shooting range may not be used for training of personnel of any branch of the United States military, National Guard or Reserve Forces, or Homeland Security, unless the range’s application identifies all proposed activities, types and calibers of firearms to be used, and the range is certified by the regional command as meeting the service’s range safety manuals and standards;

(vi) All cannons or exploding targets must meet the parameters set forth in this Article. If a range utilizes a cannon strictly for audio effect purposes, a noise variance per 10.28 is required prior to use.

(vii) Each shooting area shall be designed and used to minimize off-site noise impacts generated by shooting activities on the range. The operating permit may require noise control measures employing the best available noise abatement technology consistent with economic feasibility.

(viii) A shooting range shall use the NRA Range Source Book as a minimum to develop and implement institutional and facility controls for the safe operation, improvement and construction of shooting ranges.

(ix) All shooting ranges shall provide a means for participants and spectators to readily contact emergency services such as fire or medical aid.

(x) Designs and safety procedures shall be evaluated by the NRA Range Technical Team Advisor (RTTA) or by a professional engineer with experience and expertise in the evaluation and design of shooting ranges, or other qualified professional consultants.

(e) Application contents. The application for a shooting range operating permit or renewal of the permit shall include the following documents:

1. A detailed description of how, when and by whom the shooting range will be used, including a description of shooting, educational and competitive activities, firearms and ammunition to be allowed, specific uses to be made of each shooting area, and any special events proposed for the range.
2. A Safety Plan, which shall include:

   a. Firearm handling rules, general range rules, specific range rules and administrative rules and regulations established by the owner/operator to include any firearms and or caliber restrictions on specific shooting areas.

   b. Emergency Plan, to include provision for timely notification to the Kitsap County Sheriff’s Office and to DCD of any firearm-related injuries or the accidental or unintended release of a bullet from a shooting area.

   c. Training Plan for Range Officers.

3. Shooting range layout, design and documents, which shall include:

   a. Dimensional drawings of physical layout to include orientation of each shooting area, location and description of terrain and any natural vegetation, and locations of critical areas, buildings, structures, fences, gates, roadways, trails, foot paths and parking areas.

   b. Locations of firing lines, target lines and impact areas to include any backstops, berms, containment structures and any baffles or side containment structures.

   c. For each firing point, designation of the type and caliber of firearm and ammunition to be allowed, the surface danger zone for each type and caliber of firearm and ammunition to be allowed and the institutional controls and physical facilities necessary to prevent the escape of bullets from a shooting area.

4. A plan for ongoing and future maintenance of the shooting areas, including the grading and management of berms and backstops. This plan does not replace any permit requirements under Title 12 of the Kitsap County Code.

4. A description of noise abatement or control measures for each shooting area, including institutional controls and physical facilities designed to abate and minimize noises from shooting activities that can be heard from outside the range property.

5. A plan for safety and noise abatement improvements to be undertaken during the permit period.

6. Written Evaluation by a NRA Range Technical Team Advisor (RTTA) or a Professional Engineer with expertise in the design of shooting ranges, that verifies that the proposed uses are consistent with the NRA Range Source Book for facility designs and institutional controls. DCD may, at County expense, arrange for an additional or independent inspection and evaluation of the shooting range, including the range’s uses, facilities and institutional controls described in an application for an operating permit.

(f) During the review process DCD shall inspect the range to determine that the range is consistent with the application descriptions and to assess any deficiencies or corrective actions necessary to meet the intent of this Article. DCD shall inform the applicant of any deficiencies or
corrective actions to be taken and allow a reasonable time for the owner/operator to take corrective action. DCD may re-inspect the range to verify corrective action.

(g) Application for a new or renewed operating permit shall be processed, reviewed and be appealable under the procedures for a Type I Director’s Decision pursuant to KCC Title 21.

(h) Each owner or operator of a shooting range must apply to DCD for an amendment to the operating permit when an additional firing lines, firing lanes, or shooting facilities are proposed or the design of the Facility is altered beyond the scope of the original permit approval. Such proposed changes shall not be implemented prior to DCD approval. Routine maintenance of existing structures and facilities shall not be construed as a change requiring an amendment to an operating permit.

(i) A range safety officer or other person responsible for the shooting range shall, within twenty-four (24) business hours of an incident resulting from the accidental or unintended discharge of a firearm on the range, submit a written incident report to DCD

(j) Upon receiving evidence of noncompliance with the operating permit or receiving evidence of a reasonable likelihood that humans, domestic animals, or property have been or will be jeopardized, DCD may inspect the shooting range. The owner/operator shall make the Facility available for inspection not later than 24 hours after receiving a request.

(1) If DCD concludes there is a life safety violation of this Article or the terms of the operating permit, DCD may suspend or modify the permit to close the range or modify range operations and shall provide the owner/operator a written notice that shall set forth each claimed violation with a specific reference to the applicable Article provision and/or permit condition. The owner or operator shall have thirty (30) days to respond in writing and to take any necessary corrective measures which shall be verified by DCD or appeal the decision to the Hearing Examiner per Title 21 KCC. The DCD shall be provided access to the shooting range to verify compliance after providing notice and scheduling an appointment. The owner/operator shall make the shooting range available for inspection not later than 24 hours after receiving a request.

(2) In the event that the Kitsap County Sheriff’s Office or other police agency reports that a bullet or projectile may have left the Facility, DCD shall investigate the incident in conjunction with the police authorities and the owner/operator to determine the root cause. The investigation shall be documented and any deficiencies that are identified shall be reported to the owner/operator who shall then have thirty (30) days to respond in writing and take corrective measures or contest the findings. If an owner/operator fails to adequately respond within the thirty day requirement, DCD may suspend the operating permit, or specific activities within the Facility, until corrections are completed and verified. DCD shall be provided access to the Facility to verify compliance after providing notice and scheduling an appointment. The owner/operator shall make the shooting range available for inspection not later than 24 hours after receiving a request.
(3) Upon investigation by the Kitsap County Sheriff’s Office or DCD, the Director or designee may immediately suspend shooting operations at a shooting range upon a finding that activities at the shooting range have injured persons or damaged property or upon a finding that humans, animals, or property are in imminent danger of being injured or damaged as a result of shooting activities at the range. Furthermore, DCD may immediately suspend, or may modify or revoke the permit, to correct or abate the unsafe condition leading to the department action.

(4) A DCD decision to suspend, modify, or revoke an operating permit may be appealed to the Hearing Examiner pursuant to Title 21 KCC.

(k) Nothing in this section or any other provision of this Article shall be construed as authorizing an application or a permit for a shooting range to be located in whole or in part in an area designated as an area where the discharge of firearms is prohibited. Shooting ranges in such areas are expressly prohibited. Nothing in this Article shall be construed as permitting the discharge of firearms the ownership or possession of which is otherwise prohibited by law. Nothing in this Article shall be construed as permitting the use or possession of a firearm by an individual who is otherwise prohibited by law from owning or possessing that firearm.

Section 5. New Section. A new section is added to chapter 10.24 Kitsap County Code, “WEAPONS,” as follows:

10.24.104 Shooting range days and hours of operation.

a) Outdoor shooting ranges may allow shooting only between the hours of 9 a.m. and 7 p.m. on Monday through Friday and between the hours of 9 a.m. and 5 p.m. on Saturday and Sunday, except that a shooting range permit may authorize a range to allow shooting as early as 7 a.m. or as late as 10 p.m. in areas of the range for which the permit applicant has demonstrated that the range facilities have been designed and constructed or modified using the best available noise abatement technology consistent with economic feasibility. Thanksgiving and December 25th are each designated as non-shooting days.

b) The hours of operation for an authorized outdoor shooting range may be expanded up to five times per year pursuant to a temporary use permit, which expands the hours of shooting not earlier than 7 a.m. and not later than 10 p.m., valid for up to three consecutive days.

Section 6. Kitsap County Code Section 10.24.105, last amended by Ordinance 50B-1993, is amended as follows:

10.24.105 Review committee.
The Kitsap County Board of Commissioners may direct the Director of Community Development to establish a review committee to evaluate proposed changes to the shooting range operating permit governed by this Article. The committee will consist of the Director of the Department of Community Development or the Director’s designee (chair), Kitsap County Sheriff or the Sheriff’s designee, a representative of each currently permitted shooting range in unincorporated Kitsap County and an equal number of citizens-at-large appointed by the Kitsap County Board of Commissioners. An appointed citizen at-large may not be a member of or affiliated with any established shooting range in unincorporated Kitsap County.

**Section 7.** Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

**Section 8.** Recitals. The recitals herein shall be findings of fact and are incorporated herein by reference.

**Section 9.** Effective Date. This Ordinance shall take effect immediately.
ENACTED this _____ day of __________________, 2012.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

ROBERT GELDER, Chair

CHARLOTTE GARRIDO, Commissioner

Dana Daniels
Clerk of the Board

JOSH BROWN, Commissioner

APPROVED AS TO FORM BY THE PROSECUTING ATTORNEY’S OFFICE