

ORDINANCE NO. ____ -2011

**AN ORDINANCE AMENDING KITSAP COUNTY CODE CONCERNING
SHOOTING RANGES**

WHEREAS, Kitsap County has experienced a substantial increase in population density in areas proximate to and within range of 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, the Washington Constitution, Article XI Section 11, confers upon county legislative authorities police power to adopt regulation as 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, operation and expansion of all shooting range facilities will encourage recreational and educational shooting activities to be conducted in a safe manner; and

WHEREAS, the Board finds that the requirement of an operating permit will protect and preserve the health, safety and welfare of land owners and users and the general public in the vicinity of shooting ranges; and

WHEREAS, the Board finds the Kitsap County Code does not presently regulate the hours of operation for discharge of firearms at shooting ranges in unincorporated Kitsap County and that the enactment of provisions governing 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 – ~~No Shooting Areas~~ Restricted 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 restricted firearms discharge rules and a permitting procedure for the establishment and operation of shooting ranges. The standards adopted herein are intended to protect and safeguard participants, spectators, neighboring properties and the public.

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) “Shoreline” means the border between a body of water and land measured by the ordinary high water mark.
- (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 exists 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: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- (4) “Range” or “shooting 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 safety officer” means a person or persons appointed by the operators of a shooting range to oversee the safe discharge of ~~weapons~~ firearms in accordance with any conditions of permit approval and any other additional safety specifications which may be adopted by the operators of the shooting range.

(6) “Range safety inspection team” means the Kitsap County Sheriff or his or her designee, the Director of the Kitsap County Community Development or his or her designee, and a representative of each existing shooting range in Kitsap County, who shall conduct range inspections and submit an evaluation of each application for and each renewal of a shooting range operating permit. No representative of a shooting range may sit on the inspection team evaluating a permit application for the range with which he or she is affiliated.

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) —The discharge of firearms shall be allowed on ranges which meet the criteria of this section. The property owner shall apply for and obtain a permit for a range. The application shall be submitted to the Kitsap County department of community development (DCD). An application for a range shall indicate whether the firearms to be used at the range are of the rim fire, elevated shot or other type or variety and whether the proposed range is to be a private or public range. Upon receipt of the application, DCD or its designated agent shall inspect the proposed range to ensure the suitability of the intended use, taking into consideration the most currently available guidelines for ranges promulgated by the National Rifle Association. Notice of the permit application shall be provided as required by the Land Use and Development Procedures Ordinance (Title 21 of this code). In addition, DCD shall post the property on which the proposed range is to be located with a notice of intended use. No permit shall be issued for a range unless the proposed range is first inspected and approved by a certified range technical advisor or equivalent.~~

~~(b) —Permit applications for private ranges may be processed administratively by DCD. Permit applications for all other ranges shall be processed in accordance with existing procedures for the processing of unclassified use permits.~~

~~(c) —Ranges shall be divided into two categories as more fully described in this subsection:~~

~~— (1) —Private Ranges. A range shall be deemed a private range if it meets the following criteria:~~

~~— (A) — No fee is charged for use of the range or for membership in the group of individuals allowed to use the range.~~

~~—— (B) Use of the range is limited to family members and up to two guests of the property owner at any one time; provided, however, that the property owner may apply to DCD up to twice annually for a special event exemption allowing in excess of two guests at a shooting event.~~

~~—— (C) A permit has been issued for use of that property as a private range.~~

~~The provisions of this subsection shall be available to and apply equally to property being rented on at least a month to month basis from the property owner, provided, however, that both the individual renting the property and the property owner shall sign any application for a private range permit or special event exemption as to that property.~~

~~—— (2) Public Ranges. All ranges which do not meet the criteria for a private range shall be deemed to be public ranges.~~

(a) Shooting ranges shall be authorized established 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 operations of shooting ranges, and shall be issued, denied or conditioned based upon safety and noise considerations on and off the range. The operating permit may shall establish conditions of use, including which may include restrictions on types of firearms and ammunition, firing positions, directions of fire, locations of shooting areas, and hours of shooting activities at the range. DCD may immediately suspend or revoke an operating permit upon the DCD Director's determination as a Type I decision per Kitsap County Code Chapter 21.04 finding that the permit's terms have been violated or that any participant, spectator, neighboring personal or real property or member of the public has been injured or endangered-damaged as a result of range design, operation or management of shooting activities. No 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, and shall apply for renewal of the permit every two years annually. The owner or operator of any 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 November 30, October 31, 2011.; and may continue to operate an existing range pending consideration of the application. Shooting activities may temporarily continue on existing ranges until a final decision on the application is issued, provided that no existing range may allow: Use of full automatic firearms, use of .50 or greater caliber firearms, use of exploding targets, or shooting outside of 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, Sunday and national holidays. If the DCD Director determines -that a range has violated one or more of these interim conditions between enactment of this ordinance and February 29, 2012, the Director shall issue a written Type I decision pursuant to Kitsap County Code Chapter 21.04 ordering that the range may not allow

shooting activities until a final decision on the range's application is issued. However, in no instance may any shooting range operate without a valid operating permit issued pursuant to this chapter after February 29, 2012. December 31, 2011.

(c) The initial application for a shooting range operating permit for new and currently existing ranges shall include a written evaluation of range safety authored by a National Rifle Association (NRA) Range Technical Advisory Team-certified range technical advisor not affiliated with the applicant, and a shooting range for which an operating permit has been revoked must submit an updated NRA Range Technical Advisory Team range safety evaluation as part of an application for reinstatement of the permit. In reviewing the application, DCD shall consider the recommendations of the Range Technical Advisory Team and the Range Safety Inspection Team.

(d) To be permitted pursuant to this article, a All shooting ranges permitted pursuant to this article shall, at a minimum, comply with the following health and safety standards and specifications, which shall be addressed in the application for a shooting range operating permit. DCD shall evaluate each application for an operating permit or for renewal of an operating permit, and DCD shall consider the written recommendations of the Range Safety Inspection Team. For each application, a range shall submit itself for inspection by DCD and the Range Safety Inspection Team upon provision of reasonable notice. and subject to inspection by DCD or by the Kitsap County Sheriff's Office upon provision of reasonable notice:

(1) Each shooting area shall be designed, operated and maintained to contain the bullets, shot or other projectiles discharged within the range property;

(2) Range site design features and safety procedures shall be installed and maintained to prevent rounds from escaping each shooting area, when designated shooting positions are used in accordance with range safety rules and standards;

(3) Plans shall be submitted with the permit application which depict and describe the features and uses of the range, including but not limited to the location of all structures, shelters, shooting areas, target lines, backstops, berms, artificial lighting, parking areas and access points; safety features of the shooting range; elevations of the range showing shooting positions, target areas, backstops and berms; types, caliber and uses of firearms to be allowed at each firing point; and approximate locations of buildings on adjacent properties. For each outdoor shooting area lacking overhead baffles, the plans shall also depict surface impact areas (or surface danger zones) for each type, caliber and use of firearms to be allowed at each firing point and shall depict the approximate locations of public roads, parks, residential neighborhoods, schools and other occupied buildings within the surface impact areas;

(4) A safety plan shall be submitted with the permit application which includes rules and operating procedures for each range. This plan should include the applicant's sign-in and sign-out procedures, rules and -restrictions on the activities and the the uses of ranges,

~~restrictions on rapid firing of firearms, restrictions on types and calibers of firearms and ammunition allowed, and training of range safety officers and supervision of range users by range safety officers. Each safety plan shall prohibit loaded weapons on the range, except at shooting positions and except for holstered handguns;~~

~~(5) All shooting ranges shall have at least one range safety officer on duty at all times shooting activities occur;~~

~~(6) Warning signs shall be installed conspicuously posted and maintained along shooting range property lines. These signs shall be conspicuously posted at intervals of at least one sign every one hundred (100) feet, and tThe range shall be fenced, unless the range can demonstrate that alternative controls can restrict access, where practical;~~

~~(7) Shooting ranges shall be used for the shooting activities approved in the operating permit. Changes in uses will require application for and approval of an amendment to the operating permit and may require additional permits they were designed to accommodate unless redesigned to safely accommodate new shooting activities;~~

~~(8) 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 Each shooting area shall be designed, operated and maintained to minimize the sound level of noise produced by the shooting range which can be heard outside the range property. The operating permit may be conditioned upon the range adopting and following procedures or a plan to mitigate or reduce measurable sound levels which can be heard in populated areas outside of the range property;~~

~~(9) A shooting range may not be used for official training of personnel of any branch of the United States military, National Guard or Reserve, 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;~~

~~(109) All shooting ranges shall provide a means for range participants and spectators to readily contact emergency services such as fire or medical aid;~~

~~(110) A range safety officer or other person responsible for the shooting range shall, within twenty-four (24) hours of an accident resulting from the discharge of firearms on the range, report in writing to the Kitsap County Sheriff's Office and to DCD all accidents resulting from the discharge of firearms on the range;~~

~~(124) Ranges shall not allow the use of exploding targets or cannons without a special use permit. Ranges shall meet all local fire codes applicable to the storage of explosives, the use of cannons or the storage of explosives, without issuance of a temporary use permit; and~~

~~(132) In reviewing operating permit applications and conducting inspections, DCD and the Range Safety Inspection Team shall be guided by the current edition of "The NRA Range Source Book" published by the National Rifle Association.~~

(e) Once DCD Upon has determined that the application for a new or renewed range operating permit is complete pursuant to Kitsap County Code Chapter 21.04, DCD or its designated agent and the Range Safety Inspection Team shall inspect the range operations and facilities to assess potential onsite and offsite safety and noise controls and noise impacts and to assess the range's conformity with the permit application and/or with the terms and conditions of any existing permit. DCD shall inform the applicant of any deficiencies or corrective actions to be taken and may re-inspect the range to verify compliance with this Article.

(f) Application for a new operating permit or for renewal of an operating permit shall be processed, reviewed and appealable under the procedures for a Type I Director's Decision pursuant to KCC Title 21. However, public notice of a new operating permit application shall be provided within 14 days of DCD deeming the application complete and shall be provided in accordance with the notice requirements of KCC Title 21 for a Type II application. For a range's initial application for the operating permit, the applicant may elect to combine its application for a shooting range permit with an application for a conditional use permit pursuant to KCC Chapter 17.421, provided that the combined application and combined review shall address the safety and noise requirements of this article, and provided further that the applicant who is granted a combined conditional use permit/operating range permit under these circumstances shall thereafter annually apply for renewal of the operating permit as prescribed in this section.

(g) The operating permit shall be valid for a period of one two years after issuance. The owner or operator of a shooting range shall apply for renewal of its operating permit not later than 390 days prior to expiration of the operating permit currently in effect.

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

Section 5. New Section. A new section is added to chapter 10.24 Kitsap County Code, "Weapons," as follows:

10.24.104 Ranges – hours of operation.

Outdoor Sshooting ranges may allow shooting only between the hours of 9 a.m. and the earlier of 7& p.m. on Monday through Friday and between the hours of 9 a.m. and 5 p.m. on Saturday, Sunday and national holidays or one half hour after sunset, as published by the National Weather

Service for Bremerton National Airport. A temporary use permit may be issued for an expansion of these hours of use, and may be valid for up to one three-day period only.

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

10.24.105 Review committee.

~~(a) A review committee is created for the purpose of recommending to the county board of commissioners the appropriate criteria for ranges and for petitions to establish additional “no shooting” areas within Kitsap County. Such committee shall consist of seven persons as follows:~~

- ~~(1) The county sheriff, who shall chair such committee, or his designee.~~
- ~~(2) The director of the county department of community development, or his designee.~~
- ~~(3) The presidents of the Kitsap County Rifle and Revolver Club or the Poulsbo Sportsman Club, or their designees.~~
- ~~(4) Three citizens at large to be appointed by the county board of commissioners.~~

(a) The Kitsap County Board of Commissioners may shall establish a review committee to develop evaluate the incorporation of shooting ranges into the County’s zoning code and Comprehensive Plan and to develop appropriate criteria for ongoing regulation of shooting ranges, consisting of the county Sheriff or the Sheriff’s designee, the Director of the Department of Community Development or the Director’s designee, the presidents of all currently permitted authorized shooting ranges or their designees and three citizens at large as appointed by the County Commissioners; at least one of whom shall be qualified in firearm range safety, and at least one of whom shall reside down-range and within three miles of an established shooting range in unincorporated Kitsap County. An appointed citizen at large may not be a member of or affiliated with any established shooting range in unincorporated Kitsap County.

(b) Upon the receipt of the review committee’s recommendations, the Kitsap County Board of Commissioners shall set such matters for consideration at the next regularly scheduled public hearing or as soon thereafter as they may appropriately be heard.

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 _____, 2011.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

CHARLOTTE GARRIDO, Chair

ATTEST:

ROBERT GELDER, Commissioner

Dana Daniels
Clerk of the Board

JOSH BROWN, Commissioner

APPROVED AS TO FORM BY THE PROSECUTING ATTORNEY'S OFFICE