

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY PLANNING BOARD

**MEETING DATE:** March 24, 2021

**SUBJECT:** Land Development Code Text Amendment (#TX-2021-02)

**PRESENTER:** Autumn Radcliff, Planning Director

**ATTACHMENTS:**

1. 3-17-21 BOC Draft Amendment
2. 3-18-201 Draft LDC Text Amendments as Discussed by the Planning Board
3. 9-14-21 Zoning Determination Letter
4. Excerpt from other related ordinances

### SUMMARY OF REQUEST:

On March 17<sup>th</sup>, 2021, the Board of Commissioners directed the Planning Board to provide a recommendation on the draft language for shooting ranges as discussed by the Board (see attachment 1). The Planning Board has 30 days to review the draft language and provide a recommendation on the proposed text amendment. The proposed amendment to the Land Development Code (#TX-2021-02) is related to indoor and outdoor shooting ranges for both private and commercial operations.

On March 18<sup>th</sup>, 2021, the Planning Board discussed the draft amendments that the BOC requested. The Planning Board directed staff to incorporate the Planning Boards recommended changes discussed and provide some additional information related to other jurisdictions. The Planning Board voted to call a special called meeting to continue its discussion of these amendments for March 24<sup>th</sup>, 2021 at 12:00 pm in the King Street meeting room to meet the 30-day deadline requirement.

### BOARD ACTION:

Recommendation by the Planning Board is required prior to the Board of Commissioners adopting any text amendments to the Land Development Code.

**Suggested Motion:** None.

**3-17-21 Board of Commissioner Draft Amendments**

	R1	R2	R2R	R3	R4	OI		LC	CC	RC	I	
<i>Private Shooting Ranges, Indoor</i>	P	P	PS	PS	PS	P		PS	PS	PS	PS	4.17A
<i>Private Shooting Ranges, Outdoor</i>	<del>P</del>	<del>P</del>	<del>P</del>	PS	PS	<del>P</del>	-	<del>P</del>	<del>P</del>	<del>P</del>	PS	4.18A
<i>Commercial Shooting Ranges, Indoor</i>			PS	PS	PS	S		PS	PS	PS	PS	4.17
<i>Commercial Shooting Ranges, Outdoor</i>			P	PS	PS			P	P	P	PS	4.18

PROPOSED AMENDMEN(S) TO HENDERSON COUNTY ORDINANCES  
RELATED TO SHOOTING / FIRING RANGE(S)

1. Henderson County Code

Article XIV. Definitions

~~Shooting Range ....~~

**Private shooting range.** – An area, indoors or outdoors, designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**Commercial shooting range.** - An area, indoors or outdoors, designed and operated for profit for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting. This includes any such area owned and/or operated by a for-profit or non-profit entity which requires membership dues to be a member or which requires any remuneration (including “donations”) in exchange for access to the area.

#### SR 4.17A. **Private Shooting Ranges, Indoor**

- ~~1. Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).~~
- ~~2. Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.~~
- ~~3. -~~

Structure. Indoor **Private shooting ranges shall be designed to (a) contain all projectiles fired within portions of any the structure specifically designated for firearm discharge, and (b) to contain all projectiles fired, on site.**

**Private shooting ranges may be posted against trespassing in accordance with the requirements of section 14-159.7 of the North Carolina General Statutes.**

#### SR 4.18A. **Private Shooting Ranges, Outdoor**

- ~~1. Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).~~
- ~~2. Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.~~
- ~~3. Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse affects to adjacent properties.~~
- ~~4. - - - -~~

- ~~1. Separation. An outdoor **Private shooting range** shall not be constructed or newly located within:
  - ~~a. **One-Fourth (1/4)** One-half (1/2) mile of an existing *school, library, free-standing day-care facility, healthcare facility and/or religious institution;* and~~
  - ~~b. One thousand (1,000) feet of an existing *dwelling unit* (located in a *residential zoning district* and not located on the same property as the use), **or Five hundred (500) feet where there is**~~~~

~~a public street or highway separating the range and dwelling unit.~~

- ~~2. Security. The operations of an outdoor *shooting range* shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; or (2) a wall at least eight (8) feet in height. Entrances and exits should be secured and locked during non-operating hours.~~
- ~~3. Perimeter Setback. Two hundred (200) feet. (Storage of debris, equipment and other materials shall not be permitted in the *perimeter setback*).~~
- ~~2. Perimeter Buffer. Fifty (50) feet.~~
- ~~3. Structure. Outdoor **Private** *shooting ranges* must be designed to contain all projectiles fired on-site.~~
- ~~4. Hours of Operation. 9:00 a.m. to 8:00 p.m. or **One hour after sunrise to one hour after sunset.**~~

#### **SR 4.17. Commercial Shooting Ranges, Indoor**

- ~~1. Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).~~
- ~~2. Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.~~
- ~~3. Structure. Indoor *shooting ranges* shall be designed to contain all projectiles fired within portions of the *structure* specifically designated for firearm discharge.~~

#### **SR 4.18. Commercial Shooting Ranges, Outdoor**

- ~~1. Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).~~
- ~~2. Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.~~
- ~~3. Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adversely affecting adjacent properties.~~
- ~~4. Separation. An outdoor *shooting range* shall not be constructed or newly located within:~~

- a. One-half ( $\frac{1}{2}$ ) mile of an existing *school, library, day care facility, healthcare facility and/or religious institution*; and
  - b. One thousand (1,000) feet of an existing *dwelling unit* (located in a *residential zoning district* and not located on the same property as the *use*).
5. Security. The operations of an outdoor *shooting range* shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; or (2) a wall at least eight (8) feet in height. Entrances and exits should be secured and locked during non-operating hours.
6. Perimeter Setback. Two hundred (200) feet. (Storage of debris, equipment and other materials shall not be permitted in the *perimeter setback*).
7. Perimeter Buffer. Fifty (50) feet.
8. Structure. Outdoor *shooting ranges* must be designed to contain all projectiles fired on-site.
9. Hours of Operation. 9:00 a.m. to 8:00 p.m.

### 3-18-21 Planning Board Discussed Changes

Remove the current definition for shooting range and replace with a definition for commercial shooting range.

~~**Shooting Range.** A facility designed or used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions. A shooting range may be indoors (completely enclosed within a building/structure) or outdoors.~~

**Shooting Range, Commercial.** - An area, indoors or outdoors, designed and operated for profit for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting. This includes any such area owned and/or operated by a for-profit or non-profit entity which requires membership dues to be a member, or which requires any remuneration (including “donations”) in exchange for access to the area. For the purpose of this chapter, private shooting on individual property that does not meet the above standards for commercial shooting ranges shall be allowed by right without a zoning permit provided that it complies with Chapter 23 of the Henderson County Weapons Ordinance, 10-C.

The Planning Board will continue its discussion regarding commercial shooting ranges both indoor and outdoor. Below is the existing SR's for shooting ranges.

USE TYPE	GENERAL USE DISTRICT										
	P=Permitted; S=Special Use Permit										
	R1	R2	R2R	R3	R4	OI	LC	CC	RC	I	SR
<b>4. RECREATIONAL USES</b>											
<i>Shooting Ranges, Indoor</i>			S	S	S		S	S	S	S	4.17
<i>Shooting Ranges, Outdoor</i>				S	S					S	4.18

#### **SR 4.17. Shooting Ranges, Indoor**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.
- (3) Structure. Indoor *shooting ranges* shall be designed to contain all projectiles fired within portions of the *structure* specifically designated for firearm discharge.

#### **SR 4.18. Shooting Ranges, Outdoor**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.
- (3) Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse affects to adjacent properties.
- (4) Separation. An outdoor *shooting range* shall not be constructed or newly located within:
  - a. One-half (½) mile of an existing *school, library, day care facility, healthcare facility and/or religious institution*; and
  - b. One thousand (1,000) feet of an existing *dwelling unit* (located in a *residential zoning district* and not located on the same property as the *use*).
- (5) Security. The operations of an outdoor *shooting range* shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; or (2) a wall at least eight (8) feet in height. Entrances and exits should be secured and locked during non-operating hours.
- (6) Perimeter Setback. Two hundred (200) feet. (Storage of debris, equipment and other materials shall not be permitted in the *perimeter setback*).
- (7) Perimeter Buffer. Fifty (50) feet.
- (8) Structure. Outdoor *shooting ranges* must be designed to contain all projectiles fired on-site.
- (9) Hours of Operation. 9:00 a.m. to 8:00 p.m.



## Henderson County, North Carolina Code Enforcement Services

September 14, 2020

RE: Rector Property

I received complaints about outdoor shooting on the Travis and Virginia Rector property in December 2019. I investigated the complaint and found the property to contain an outdoor shooting range for private use. The Land Development Code (LDC) defines a shooting range below.

**Shooting Range.** A facility designed or used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions. A shooting range may be indoors (completely enclosed within a *building/structure*) or outdoors.

The LDC does not differentiate between public and private ranges for the purposes of permitting. The County must make determinations between what is a business and what is personal use in order to allow individuals to enjoy the use of their property. It is the County's determination that this range is not a public business use and therefore does not require a special use permit.

Please see answers to your questions below:

1) What factors are considered when determining whether one's property is being used as an outdoor Shooting Range;

**Henderson County identifies a business use shooting range from the existence of advertising, structures, parking, access, amount of use and hours of operation.**

2) Whether the current use of the Property is that of an outdoor Shooting Range as the same is defined in the LDC;

**The LDC definition of a shooting range is a FACILITY designed for the purposes of target practice or temporary competitions. When a term is not defined in the LDC we use the Merriam Webster definition for interpretations. A Facility is defined as "something (such as a hospital) that is built, installed, or established to serve a particular purpose". Henderson County does not feel that this use constitutes a facility designed as a shooting range. There is an earthen backstop berm and a small storage building for targets and chairs on the property. There is not driveway access nor designated parking on the property.**

3) Why the Property is not considered a facility designed or used for the discharging of firearms for the purposes of target practice; and

Toby Linville  
Director, Code Enforcement Services  
100 N King St.  
Hendersonville, North Carolina 28792  
[tlinville@hendersoncountync.org](mailto:tlinville@hendersoncountync.org)  
[www.hendersoncountync.org](http://www.hendersoncountync.org)  
828-694-6627



**The use does not constitute a facility as defined. The property is used for target practice but not for temporary competitions.**

4) Whether the current use of the Property, involving the discharging of firearms, requires a Special Use Permit and is subject to the supplemental requirements outlined in SR 4.18.

**This use does not require a special use permit. Although the definition of a shooting range is vague in the LDC, it is not Henderson County's position to regulate small backyard shooting ranges as if they were public businesses.**

Toby Linville  
Director, Code Enforcement Services  
100 N King St.  
Hendersonville, North Carolina 28792  
[tlinville@hendersoncountync.org](mailto:tlinville@hendersoncountync.org)  
[www.hendersoncountync.org](http://www.hendersoncountync.org)  
828-694-6627

## **Examples From Other Jurisdictions:**

### **Catawba County:**

*Firing/shooting range*—A facility open to the public or to members of a membership organization where firearms are discharged at targets, whether or not a fee is paid to the owner or proprietor of the facility.

Sec. 44-651. - Firing range—Outdoor.

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTIONCOMPARE VERSIONS](#)

- a) The use must not be located within 2,640 feet of any residence.
- b) All state and federal requirements must be met.
- c) A projectile-proof backstop, consisting of concrete, steel, earth, or any combination, at least 15 feet high must be erected and maintained behind all target areas. (Ord. No. 2007-001, 2-5-2007; Ord. No. 2008-17, 10-20-2008)

### **Jackson County:**

*Outdoor Sports Field.* An area designed for recreation (public or privately owned). These areas include, but are not limited to, baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, firearm shooting ranges, and swimming pools.

### **Buncombe County:**

*Shooting range, outdoor commercial* means an improved area that is commercially operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, air guns, archery, or any other similar sport shooting in an outdoor environment.

Conditional Use in OU and CR (Conference Center/Resort District)



MECKLENBURG COUNTY FIREARMS ORDINANCE

<b><u>SECTION 1. Preamble</u></b>	Page 2
<b><u>SECTION 2. Discharge Distance</u></b>	Page 2
<b><u>SECTION 3. Discharge Prohibited</u></b>	Page 2
<b><u>SECTION 4. Discharge around Domestic Livestock</u></b>	Page 2
<b><u>SECTION 5. Weapons around Children</u></b>	Page 2
<b><u>SECTION 6. Automatic Mode</u></b>	Page 3
<b><u>SECTION 7. Exemptions</u></b>	Page 3
<b><u>SECTION 8. Hunting</u></b>	Page 3
<b><u>SECTION 9. Definitions</u></b>	Page 3
<b><u>SECTION 10. Penalty</u></b>	Page 3
<b><u>SECTION 11. Enforcement</u></b>	Page 3
<b><u>SECTION 12. Severability</u></b>	Page 4
<b><u>SECTION 13. Applicability</u></b>	Page 4
<b><u>SECTION 14. Repealed</u></b>	Page 4
<b><u>SECTION 15. Effective Date</u></b>	Page 4



## MECKLENBURG COUNTY FIREARMS ORDINANCE

**WHEREAS**, Chapter 1052 of the 1955 North Carolina Session Laws authorizes the Board of County Commissioners of Mecklenburg County to adopt ordinances "governing the indiscriminate shooting of firearms around or about residences, settlements or thickly-populated areas of Mecklenburg County"; and

**WHEREAS**, G.S. 153A-121 allows a County by ordinance to define, regulate, prohibit, or abate acts, omissions or conditions detrimental to the safety or welfare of its citizens; and

**WHEREAS**, the purpose of this Ordinance is to protect the public safety by regulating the indiscriminate shooting of firearms within the unincorporated areas of Mecklenburg County; now, therefore,

### **BE IT ORDAINED by the Board of Commissioners of Mecklenburg County:**

**SECTION 1.** Each person discharging a firearm is responsible for exhibiting reasonable regard for the safety and property of other persons and for discharging the firearm in such a manner as to assure that all projectiles come to rest safely within the boundary or boundaries of the property or properties on which the person is authorized to be shooting.

**SECTION 2.** Except as provided in Section 7, it shall be unlawful for any person to discharge a firearm within 900 feet of any of the following:

- (a) A dwelling house;
- (b) A school;
- (c) A church;
- (d) Any other type of building, while occupied;
- (e) A public or private park or recreation area;
- (f) Any other type of public gathering place.

**SECTION 3.** It shall be unlawful for any person to discharge a firearm in such a way as will result in the projectile therefrom passing across a sidewalk, or across a highway, street, or other public vehicular area.

**SECTION 4.** It shall be unlawful for any person to discharge a firearm within 900 feet of any domestic livestock not belonging to him unless such person has on his person written permission for such activity from the owner of the livestock.

**SECTION 5.** It shall be unlawful for any person, being a parent or guardian of, or standing in loco parentis to, any child under twelve (12) years of age, to permit such child to have possession or custody of, or use in any manner whatsoever, any firearm, whether such firearm is loaded or is not loaded without direct, active adult supervision of the child at all times the child is holding the firearm. It shall be unlawful for any person being a parent or guardian of, or standing in loco parentis to, any child between twelve (12) years of age and fifteen (15) years of age, to permit such child to discharge a firearm without direct, active adult supervision of the child at all times the child is firing the firearm unless that child has passed a Hunter Safety Course or similarly recognized course in firearms safety.

**SECTION 6.** It shall be unlawful for any person to fire any firearm in a fully automatic mode except on a firing range operated by a recognized gun club or law enforcement agency, which firing range is substantially in accordance with specifications promulgated by the National Rifle Association or by an equivalent nationally recognized firearms safety authority for the firing of a fully automatic firearm of the type and caliber being fired. Such person firing a firearm in a fully automatic mode must have on his person the necessary documentation showing that the firearm is properly registered with the federal government and that the person has the proper federal license to possess such firearm.

**SECTION 7.** Section 2 of this Ordinance shall not apply to any of the following:

- (a) A person discharging a shotgun with any type of shot or load except "slugs," provided that the shooter is 500 feet or more from any of the types of places or structures listed in Section 2(a) - (f).
- (b) A rifle, pistol, skeet or trap range, operated by a recognized gun club or by a law enforcement agency, which firing range is substantially in accordance with specifications promulgated by the National Rifle Association or by an equivalent nationally recognized firearms safety authority for the type and caliber of firearms being fired, except as provided in Section 6 above;
- (c) a person target shooting on his own property (or on another's property if he has on his person written permission for the activity from the owner of the property) exhibiting reasonable regard for the safety and property of other persons (i) if such person is using a backstop substantially in accordance with specifications promulgated by the National Rifle Association or any equivalent nationally recognized firearms safety organization for the type and caliber of firearms being fired, and (ii) if such person has on his person written permission for such activity from all persons owning any of the types of places or structures listed in Section 2(a) - (f) which are located within 900 feet of the target shooting activity;
- (d) a person hunting on his own property (or on another's property if he has on his person written permission for the activity from the owner of the property) exhibiting reasonable regard for the safety and property of other persons if such person has on his person written permission for such activity from all persons owning any of the types of places or structures listed in Section 2(a) - (f) which are located within 900 feet of the hunting activity;
- (e) law enforcement officers or members of the armed forces discharging firearms in the line of duty (provided that Section 1 of this Ordinance shall also not apply to such an activity);
- (f) persons discharging firearms for the purpose of shooting or killing any dangerous animal or reptile;
- (g) person discharging a firearm in self-defense (provided that Section 1 of this Ordinance shall also not apply to such an activity).

**SECTION 8.** The provisions of this Ordinance shall apply to all persons engaged in hunting as regulated by Subchapter III of Chapter 113 of the North Carolina General Statutes, or similar successor statutes.

**SECTION 9.** The term "firearm" is defined as any weapon or similar instrument from which shot, shells, bullets, or similar projectiles are discharged by means of the explosion of gunpowder.

**SECTION 10.** The violation of any provision of this Ordinance shall be a misdemeanor and may be punishable by a fine of not more than FIFTY DOLLARS (\$50.00) or imprisonment for not more than THIRTY (30) days.

**SECTION 11.** North Carolina Wildlife officers (Wildlife Protectors) are authorized to enforce the provisions of this Ordinance.

**SECTION 12.** It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and that if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, as the same would have been enacted by the Board without incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

**SECTION 13.** This Ordinance shall apply to all unincorporated areas of Mecklenburg County.

**SECTION 14.** The "Resolution Relative to the Indiscriminate Shooting of Firearms in Those Sections of Mecklenburg County Which Lie Outside of the City Limits of the City of Charlotte and Outside of the Town Limits of any Other City or Town in Said County" is hereby repealed.

**SECTION 15.** This Ordinance shall be effective upon its adoption except with respect to turkey shoots conducted during 1988 pursuant to Section 3134 of the Mecklenburg County Zoning Ordinance.

Adopted the 7th day of November, 1988.

Amended on the 5th day of December, 1988.

Amended on the 19th day of December, 1988.

---

For more information contact Tyrone Wade  
980-314-2908 | [TyroneC.Wade@MecklenburgCountyNC.Gov](mailto:TyroneC.Wade@MecklenburgCountyNC.Gov)